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APPLICATIONS FOR ENROLLMENT OF THE

COMMISSION TO THE FIVE CIVILIZED TRIBES

1898 - 1914

ROLL 292

CHEROKEE FREEDMEN 1275 - 1303

THE NATIONAL ARCHIVES
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Cher Fr 1275

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 5 1901

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 5, 1901.

In the matter of the application of Rocky Childers for enrollment as a Cherokee Freedmen.

Rocky Childers, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Rocky James.
Q How old are you? A I don't know exactly my age, I reckon I am about 30.
Q What is your post office? A Webbers Falls.
Q What district do you live in? A Canadian.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled by any other tribe or nation as a freedman? A No, sir.
Q Who do you desire to enroll besides yourself? A No one but myself.
Q What is your fathers name? A James.
Q His given name? A Isaac James.
Q What is your mother's name? A Nancy Sheppard.
Q Is your mother living? A Yes, sir, she was here a few minutes ago.
Q Where were you born? A Why I don't know where I was born.
Q Where have you lived all your life? A Near about Canadian, on the other side of the Canadian and on this side.
Q In the Cherokee Nation? A In the Choctaw Nation and the Cherokee Nation.
Q Are you living in the Cherokee Nation now? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A I don't know; all I know anything about is the Cherokee Nation.
Q You know just the Choctaw Nation and the Cherokee Nation, do you? A Yes, sir.
Q Do you know whether you have been living in the Choctaw or Cherokee Nation, don't you? A I have been living in the Cherokee Nation almost all my life.
Q About how long? A I don't know.
Q Been living here six months? A Well, I guess I have been living here longer than six months, I ought to have been.
Q Well that is what I am trying to find out? A Well I can't count.
Q Don't you know anything about how long you have been living in the Cherokee Nation? A I have been living at the Falls about 15 or 16 years.
Q Where are the Falls, Choctaw Nation? A Webbers Falls, Cherokee Nation.
Q You know then you have been in the Cherokee Nation about 15 or 16 years? A And I have been at Lynch's ranch four or five years and at Whitefield and on the line.
Q Are you married? A No, sir.

Examination by W.W.Hastings, attorney for Cherokee Nation:
Q Wasn't your name Rocky Childers? A No, sir, I have been married to Childers, but I never enrolled under Childers name.
Q Is that your name now? A No, sir, I don't know that name at all, I never knew that name at all.
Commissioner Needles: What is your name now? A Childers.
Mr. Hastings: When were you married to Childers? A At Vian.
Q When? A 11 years ago.
Q You were born in the Choctaw Nation, were you not? A I don't know where I was born.
Q When you first remember you were living at Whitefield? A I remember what my mother said.
Q You were very near grown when you came to this country here?

R.C.- 2.

A No, sir, I wasn't grown.
Q You were 13 years old? A No, sir, I don't know, because I don't know my age.
Q You came here from Whitefield? A I came to Lynch's ranch that is in the Canadian district.
Q Have you been living around Webbers falls ever since for the past 16 or 17 years? A Yes, sir.
Commissioner Needles: Are you divorced from your husband? A No, sir.
Q Your name is Childers then? A That is my name, but I don't wish to go by that name.
Q You swore a while ago your name was James; do you know you ~~xx~~ are under oath? A Yes, sir, but than my enrollment is James.
Q What is your husband's name? A Bob Childers.
Q Is he living? A Yes, sir.

The 1880 authenticated roll of Cherokee Freedmen examined and the name of the applicant not found thereon.
The 1896 census roll of Cherokee Freedmen examined, and the name of the applicant not found thereon.
The Kerns-Clifton pay-roll examined, and the applicant identified thereon, page 108, No. 2687, Cooweescoowee district, as Rocky James.

Commissioner Needles: The name of Rocky Childers is found upon the Clifton-Kerns pay-roll as Rocky James. She avers that she is married to one Robert Childers, from whom she is not divorced. Her name is not found on the authenticated roll of 1880 or the census roll of 1896. She is duly identified as the child of Nancy Sheppard, and no satisfactory proof has been made as to the citizenship of her mother, Nancy Sheppard. Reference is hereby made to the testimony in case D10, case of Nancy Sheppard. The name of said Rocky Childers will be placed upon a doubtful card for further consideration.

****

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 5th of April, 1901.

D. H. L.

Commissioner.

B F 19.12

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 5 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date APR 5- 1901

Post Office Webers Falls.

District Canadian.

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

(1) Name of wife Rocky ~~James~~ Childers Age 30

Owners name ..... Citizenship .....

Year K C Roll Page ~~2697~~ 108. No. 2697 District Coos —

Parents:

Father Isaac James Citizenship Colored

Mother Nancy Sheppard. Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by Jno W Stenographer James B. C

(1) on K C Roll "Rocky James"

J N12

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 5 1901

ACTING CHAIRMAN

POOR ORIGINAL -
BEST AVAILABLE COPY

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 5, 1901.

In the matter of the application of Nancy Sheppard for the enrollment of herself and one child as Cherokee freedman.

Nancy Sheppard, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Nancy Sheppard.
Q How old are you? A I don't know.
Q About how old? A I am about 54 or 55.
Q What is your post office? A Webbers Falls.
Q What district do you live in? A They say it is in Canadian.
Q Do you make application to be enrolled as a Cherokee freedman?
A Yes, sir.
Q Did you ever apply to be enrolled by any other nation or tribe?
A No, sir.
Q Have you been recognized by the Cherokee authorities as a freedman? A Yes, sir, always have.
Q Who do you desire to enroll besides yourself? A My children.
Q How many children have you got? A I have got five.
Q Give me the name of the oldest of the children under 21 years of age? A He die, but the oldest one is named Allen, he is over 21.
Q How old is he, is he the oldest one? A No, sir, I have got a girl that is older than him.
Q How old is Allen? A He is about 21, but he is married.
Q How old is Benjamin? A He is 19.
Q What is the next child? A They are all married but Benjamin.
Q His name is Benjamin, isn't it? A Henrie, but they call him Benjamin.
Q Were you a slave? A Yes, sir.
Q What was the name of your owner? A Joe Lynch.
Q Is he living? A No, sir, he is dead.
Q Where were you at the beginning of the war between the United States and the Confederacy? A They tell me, I don't know the districts —
Q What Nation were you in? A In the Cherokee Nation on Grand River.
Q Were you taken out during the war? A Yes, sir.
Q Where to? A I don't know where they carried me to, but I reckon they must have carried me south from what I can learn.
Q What time did you come back? A I came back in the fall after we were set free.
Q Where did you come to? A Down here on the river.
Q In the Cherokee Nation? A Yes, sir, they say it was in the Cherokee Nation.
Q Have you always lived in the Cherokee Nation since that time?
A Well, yes, sir, principally; I have had no home at all until I got a home here, but just lived out and from place to place, sometimes three months and six months —
Q Where, in Kansas? A No, sir.
Q Texas? A No, sir, in the Choctaw and Cherokee Nations.
Q Did you ever live in Arkansas? A No, sir.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Scott Sheppard.
Q Is he a citizen? A No, sir.
Q What was your father's name? A Sosen Lynch.
Q What was your mother's name? A Riley Lynch.
Q What was your name 23 years ago, in 1880? A I can't count the years that way.
Q How many times have you been married? A I have been married three times.
Q What was your first husband's name? A James.

N.S.- 2.

Q What was your second husband's name? A His name was John Jones, but I haven't got any children by him.
Q What is Benjamin's name? A Benjamin James; they are all on the roll by the name of James.
Q Is your name on the roll as James? A Yes, sir.
Q What is your oldest child's name? A Rosey James, but she is married, she is a Childers.
Q How old is she, do you know? A No, sir, I don't know my own children's ages at all.
Q Did you draw the strip money? A Yes, sir.
Q Did you ever draw any money before that? A Yes, sir; I saw my name right in yonder yesterday, on that papers, in that other-house, me and all the children.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.
The 1896 census roll of Cherokee Freedmen examined and the names of the applicants not identified thereon.
The Kerns-Clifton pay-roll of 1894 examined, and the applicants identified thereon as follows:
Nancy Shepard on page 108, No. 8686, Coweescoowee district, as Nancy James;
Benjamin James on page 108, No. 8700, Coweescoowee district, as Ben James.
Q That is all the roll your name is on. A It must be on the other one too, some of them; I registered once with the Cherokees, before Mr. Wallace, and before Mr. Kerns.
Q Have you got anybody that knew you and knew all about you?
A Yes, sir.
Q Where are they? A Two Cherokee ladies, they are here.

Examined by W.W.Hastings, Attorney for Cherokee Nation: Didn't you never belong to Jim Bell? A No, sir.
Q Did you belong to Mrs. Susan Lynch's husband, Joe Lynch?
A Yes, sir.
Q Who did you come back to the Cherokee Nation with after the war?
A This lady can tell you better than I can.
Q Don't you know? A I don't know all the people, there was just a road full coming back here, and I just got in with them and came.
Q Don't you know any of them? A Yes, I know the Campbells, and I know the — but I can't call the names, but this lady knows, I can't think of them.
Q Don't you know any of the rest of them? A I was so foolish minded; I came here with the black people; I know the black people better than the Cherokee people.
Q What black people did you come with? A Aunt Caroline Campbell and Jack Campbell and his wife.
Q To what place did you come? A I came here on the Campbell place, I guess; in talking I learned a little more where I was; can turned around you know, and they said it was joining a place by the name of the Bell place and Campbell place.
Q Near Fort Smith? A Yes, sir.
Q In the bottom there? A Yes, sir.
Q How long did you remain there? A We made two crops, two years.
Q Then he where did you go? A I went right across the river and went up the river, I don't know the districts and I didn't know the lines, I had nobody to tell me, I was just by myself, and went up the river and went out there close to Whitefield and stayed out there about a year or maybe a little longer, I don't know just how long, then crossed over and came over there somewhere I don't know what the district is named, I can't tell, and then while I was back up there I was afraid to inquire for my people, I will tell you just right about it, and they told me that if I tried to come, I thought when I came to the Grand River I was in the Cherokee Nation, and they told

me if I tried to go there I would be mobbed, and just to keep my mouth shut, and I never said any more till Mr. Lynch heard of me and sent here for me to come home to Webbers Falls, and he told a man Highland to tell me to come home to him, he had heard of me; I reckon I must have been down here then.

Q Where did you marry the first time? A I can't tell you, I don't know the districts or nothing.

Q Don't you know the town and place? A I wasn't living in any town.

Q Were there any stores you went to there to trade? A Down here about Fort Smith they traded.

Q Was that the town you were near when you were married?

A Yes, sir, near about there somewhere, I don't know whether it is in the Choctaw Nation or the Cherokee Nation; I have just been around here in these nations, I know that.

Q Where were you married the second time to Jones? A Right here.

Q Fort Gibson? A No, sir, right down here at the Falls; that was below here, close about Lynch's ranch somewhere, I don't know whether in the Creek or the Cherokee Nation.

Q Where were you married the third time? A Yes, sir.

Q Where? A Over there, I don't know the district, out down about Lynch's ranch somewhere in that mountains.

Mrs. Nancie T. Kidby, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Nancie T. Kidby.

Q About what is your age? A 49.

Q What is your post office address? A Vian.

Q Do you know Nancy Shepard? A Yes, sir.

Examined by Mr. Hastings: What was your father's name? A Jack Campbell.

Q What was Nancy Shepard's father's name, her maiden name, before she was married? A Mr. Hastings, when I knew Aunt Nancy first, she was with Colonel Jim Bell's family, Mrs. Jim Bell.

Q Go ahead and tell what you know about it.

A Well, Colonel Jim Bell's folks, I was quite a small girl then, it was in about 62, they started to go to Texas, and they came down into Sequoyah and stopped there near my father's, about a mile from him, on this woman Nancy took care of Mrs. Bell's children. We were in and out with Mrs. Bell's family like one family, and so this woman belonged to Colonel Jim Bell and I knew her well.

Q That was in 1862? A Yes, sir, in 1862.

Q Go on, anything more? A Yes, sir; Colonel Bell's folks went south before we did and went to Texas, and in the fall of 1865 we came back as far as Skullyville, and we couldn't get our home back, they were confiscated, and after the treaty of 1866 we moved back here that fall and old Crabgrass had bought in our place, and they allowed us to go on one end of it and live in a cabin, and in that fall Aunt Nancy came on with a lot of other Cherokees, and she came to our house.

Q The fall of what year? A 1868; after the treaty was made we come home.

Commissioner Needles: Aunt Nancy came in about 1866? A Yes, sir, she came in that fall, there was a lot of our neighbors came in from Red River and Blue, and she was in the outfit.

Q Do you know anything about her whereabouts since that time?

A No, sir, I don't know until about ten years ago I guess; we were living there at home at Vian and Aunt Nancy came in, and she heard of me, and she came to see me because she was to take care of Mrs. Bell's little girls and myself, and she came to see me and she had

bought a little place across Vian Creek, and so that is the first I know anything of Aunt Nancy since we all came back home.
Q That was about ten years ago, about 1880? A Yes, sir.

Mr. Hastings: How long did you know her in 1863? A I knew her about a year I guess, I don't know how long Colonel Bell stayed in our bottom; oh, in 1863, she was around there in the neighborhood quite a while but I don't really remember how long it was, I was just a little girl.
Q As much as year or two or three or four? A No, sir, I think she stayed there a year, maybe, or such a time.
Q Then from about 1867 or 1868 you didn't know anything about her until 1880? A No, sir, I don't know anything about her until her and Scott Shepherd bought a farm over there on Vian Creek.
Q She didn't tell you where she had been? A Yes, sir, she told me she had been living in the Cheoter Nation, and I think one of her stepsons, her was living in our neighborhood, and she told me she had married Isaac Jones first and I think they separated, but I know she had some interest i the child.
Q You say that this soldiers returned with some Cherokee families in the fall of 1866; what Cherokee families were along, do you know?
A The Franklin family, but I can't tell you any others to save my life; Mrs. Franklin knows, she came in about that time; I have tried to remember who Aunt Nancy came in with, but I can't remember to save my life unless it was the Franklin family that she came in with.
Q Did she leave there with the Franklin family? A No, sir, he left there with the Bell family.
Q She is mistaken about belonging to Lynch; she belonged to Colonel Bell? A No, sir, she belonged to Joe Lynch, but she was nursing for Mrs. Bell.
Q You can't think, then, of anyone else except the Franklin family that returned with them? A No, sir.
Q The place you have reference to as to her coming back was just across the river from Fort Smith? A Yes, sir, she came to our house and she lived there in the neighborhood, but I was too small a girl, I don't remember so far back, I didn't charge my memory with anything like that, but I know that Aunt Nancy was there and she used to go to the rover and play with us on Sundays, and that is why I remember it so well.

Mrs. Susan Lynch, being duly sworn and examined by Commissioner Hastings, testified as follows:

Q What is your name? A Susan Lynch.
Q About how old are you? A I am 51, going on 52.
Q Do you know Nancy Shepherd? A Yes, sir.
Q What do you know about Nancy Shepherd, did she belong to your family as a slave? A She didn't belong to my family, she belonged to Mr. Lynch.
Q Your husband's family? A Yes, sir.
Q What do you know in regard to her returning to the Cherokee Nation after the war?
A I haven't know Nancy more than 14 or 15 years, but Mr. Lynch, in the round up, they found her some place below on Canadian, I don't know whether in the Cheoter Nation or in Canadian, but they had bought some cattle from McCurtain and then they went over after the cattle during the stay there they found her, and when they went back he sent word to her to come; that is the first I ever heard of her. A year or two after that she came, came up about our ranch, they were very poor and I don't know how long she was out there, she was there

for some time before I heard anything about her.

Q Do you know when it was Mr. Lynch found her? A Mr. Lynch found her, I guess it was about 1885 I expect.

Q She belonged to Mr. Lynch? A Yes, sir.

Q Was Mr. Lynch a Cherokee citizen? A Yes, sir.

Q Then how long have you known Nancy? A Why she came over there, I guess about, it must have been 1868 or 1867; that is the time I knew her; she was at the ranch, she was out in that neighborhood, and then she came to the Falls.

Q You have known her since that time? A Yes, sir, ever since; while she was there, Lynch found out she had come there, and he said he would try to get her on the rolls, and they went to Tahlequah; she ought to be on the roll there.

Q Since 1867 or 1868 you have known her all the time since 1867 or 1868; I mean 1867? A Yes, sir.

Q Has she lived in the Cherokee Nation since that time?

A Yes, sir, lived right there, lived at Wagoner Falls and on a place near about Vian.

By Mr. Hastings: Mrs. Lynch, where did your husband leave the applicant when he came back to the Cherokee Nation? A Why Colonel Bell taken her out, she was the nurse, but Joe Lynch came up, but she had nursed for Mrs. Bell, and I do the divide why Lynch got her and they taken her, she stayed with Jim Bell, Jim Bell's wife and Joe Lynch were sister and brother, an they taken her to Texas, and Mrs. Bell died in Texas, and I don't know anything about where Nancy and Joe don't know, because he didn't have any family, and he came back home, and I think Tuck Bryant found her in the Choctaw Nation; he lived with us, and I am not certain, but think it was Tuck; he been one of our cattle boy all years, and I think he found her in the Choctaw Nation..

Commissioner Kennedy: The name of Nancy Bryant is found upon the pay-roll of 1894. The name of her child Benjamin is found upon said roll. Her name is not found upon the authenticated roll of 1880, nor the census roll of 1896. She is duly identified, but evidence as to her citizenship is not conclusive, wherefore her case will be continued and her name will be placed upon a doubtful card, together with her son Benjamin James.

****

Bruce C. Jones, being duly sworn, says that he is stenographer to the Commission to the Five Civilized Tribes and correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 5th day of April, 1901.

Commissioner.

5212

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL 30 1901

ACTING CHAIRMAN.

Remarks.

Muskogee, I.T.,
July 18, 1901.

Before proceed-
ing to hear the testimony in the case of Thomas Bell vs. Mose Bell, I desire to make a motion to quash the subpoena issued for the appearance of Mose Bell, on the ground that the witness is not a party to the controversy, and that the testimony he may give would be immaterial and irrelevant to the issues involved in the case, and would be a violation of the constitutional rights of the witness.

Motion overruled.

Exception noted.

Muskogee, I.T.,
July 18, 1901.

Adjourned to meet at 8:30 a.m. July 19, 1901.

To be filed in case of Rocky Childers, D-12.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 21, 1901.

Supplemental testimony in the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman.

W. W. Hastings, Cherokee Attorney, and Mellette & Smith, attorneys for applicant; Mr. Edgar Smith, of the firm, present.

Famous Smith, being sworn and examined in this case as a witness on behalf of the Cherokee Nation by Commissioner T. B. Needles, testified as follows:
Examination conducted by W. W. Hastings, Cherokee Attorney:
Q What is your name? A Famous Smith.
Q Smith, what is your age? A 48.
Q What is your postoffice? A Webbers Falls.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q How long have you lived in Canadian District? A I lived there ever since I can recollect.
Q Do you know the applicant, Nancy Sheppard? A Yes sir.
Q How long have you known her? A I think the first time I ever saw her was in '78, or '87, I mean.
Q Where did you see her? A I saw her there at Miss Lynch's the first time I saw her.
Q Where was that? A At Webbers Falls.
Q How long have you lived in Canadian District? A Well, I was raised there; ever since I can recollect.
Q Went out during the war? A Yes sir.
Q When did you come back? A I come back in '65.
Q You are living down there since that time? A Yes sir.
Q You are pretty well acquainted with Canadian District, are you? A Yes sir.
Q When was the first time you say you remember of seeing this woman, was it in '87? A Yes, '87.
Q Have you ever had a talk with this woman at any time as to where she had been prior to that time, before that? A I served notice on her the other day, and she said she was a girl and was left out at Texas, and she didn't know how to come back and she was afraid to get back, and she just stayed there and finally came drifting back this way she said.
Q Did she say where she first come to in the Cherokee Nation? A She didn't exactly say; she come to Ike Birthoff's place in the Cherokee Nation.
Q In what district? A Canadian District.
Q When did you first see her there? A I didn't see her until after she come to the Falls the next spring after that.
Q She had been there a year? A She come in the fall of '86.
Q She never at that time said anything of coming back before? A No sir.
Q Did she say who her former owners were, or who she belonged to? A She said she belonged to Joe Lynch and Joe Lynch gave her to Jim Bell as a nurse girl, and he left her in Texas when he left there.
Q Did she say anything about coming back here in '66 with the Franklin Family? A No sir, she said she just drifted back; she said she really didn't know where she belonged.
Applicant's Attorney, Smith: Mr. Smith, you say she had this conversation with you after these notices were served on her? A Yes sir, the day I served the notice on her.
Q Who served the notice? A I did.
Q On whom? A On Nancy Sheppard.
Q You served the notice on her with regard to the taking of this testimony, today, you mean? A No sir, they just sent them to me for some of the witnesses, and I notified them to appear here.
Q Did you serve the notice on Nancy Sheppard in this case? A Yes sir.
Q Was it when that she had the conversation with you? A Yes sir.
Q Where did she have it? A At her house.

Q Who was there? A Her and one of her daughters were there.
Q What was her daughter's name? A Roxie; I forget her name. I served the notice on her; her name was Roxie; I forget the name.
Q Her first name is Roxie, is it? A Yes sir.
Q Where were they in the house or out doors? A They came out to where I was; I drove up in a buggy and I told them I had a notice for them.
Q Did you give Roxie a notice also? A Yes sir.
Q What did Roxie have to say? A She didn't know how she would get there.
Q She heard what you said to Nancy and whatNancy said to you? A They asked me to read the notices and I read them to them.
Q Roxie was there when Nancy made this statement? A She was there, and I asked her where the rest of them was; I called over the names I had notices to notify to be here. She said there was one of them and the others were down in the field.
Q That was quite a large family, eight, nine or ten, to serve on? A Yes sir.
Q Did you serve them all? A Yes sir.
Q What interest did you have in it? A They were sent to me down there to serve them.
Q And how did Nancy happen to be talking to you about when she got back here? A She just went on talking after I read the notices to her, and after I read the notice to her she said her daughter was there, Roxie, and I said I had one for her, and I asked her where the boys were; she said they were in the fields.
Q How long did you stay there? A I reckon I stayed there a half hour.
Q And up to that time you never knew anything about when she came to the Cherokee Nation or anything about it? A She come in '87.
Q She came where? A Came to Canadian District. She came to Webbers Falls in '87; she stopped up there on what they called old Gilmore's place close to Checotah.
Q You don't know where she was before she came to Webbers Falls? A No sir.
Q That was in '87 you say? A Yes sir.
Q She might have been there earlier than that might she not? A I don't know that she was; she might have been.
Q It is a good big district? A No, it is a small district.
Q You didn't know everybody that was in the district? A I used to think I knew nearly everybody. I was Sheriff there quite a while.
Q Were you ever on a scout there? A Yes sir, I scouted ten years, nearly ten years.
Q Were you ever in jail? A Yes sir.
Q How long? A About 25 months.
Q At what place? A At Fort Smith.
Q Were you convicted of anything? A Yes sir.
Q Of what? A I was convicted for murder and sentenced to hang there.
Q And what became of the case? A They nolle pros. it.
Q Finally it was nolle pros.? A Yes sir.
Q Your health was very poor while you were in jail, was it not? A Yes sir.
Q The doctor thought you had consumption? A I was having hemorrhages of the lung.
By W. W. Hastings: You got a new trial, did you? A Yes sir.
Q And then your case was nolle pros.? A Yes sir.

Emma Hilderbrand, being sworn by Commissioner Needles, and examined by W. W. Hastings, Cherokee Attorney, testified as follows: Witness on part of the Cherokee Nation.
Q What is your name? A Emma Hilderbrand.
Q What is your age? A 47 years old.
Q Where do you live? A Webbers Falls.
Q Are you a citizen of the Cherokee Nation by blood? A Yes sir.
Q Do you know the applicant, Nancy Sheppard? A Just know her when I see her.

Q How long have you lived about Webbers Falls? A Born and raised right where I am living.
Q How long has Nancy Sheppard been down there in that neighborhood or country? A I don't know.
Q When did you first remember of seeing her? A About nine years ago.
Q Did you ever have any talk with her? A Very little.
Q Did you have any talk with her as to where she come from? A I simply asked her where she come from.
Q Please state that? A I asked her where she come from and she said she come from Texas, and she came over to the Choctaw Nation and married and she lived there till she had those five children.
Q Did she state where she went from there? A No sir.
Applicant's Attorney, Smith: Mrs. Hilderbrand, she didn't tell you when she came back from Texas? A No sir, she didn't.
Q She didn't tell you when she came back to the Choctaw Nation? A No sir.
Q You don't know when it was? A No sir, I don't.
Q You don't know whether she was in the Cherokee Nation in 1866 or not? A No sir, I don't.
Q You don't know anything about when her Texas, if she had a Texas trip, was? A No sir.
Q When was it you had a conversation with her? A It was - it has been nine years ago when I had the conversation with her; my mother died and she was there. They were living on my mother's place.
Q Nine years ago? A Yes sir.
Q Who did you first tell about having this conversation with this woman? A Mr. Famous Smith, I believe.
Q When did you tell him? A It has been three weeks ago.
Q How did you happen to tell him about the conversation you had nine years ago? A He simply came to my house and asked me if I knew Aunt Nancy, and I said I knew her when I saw her.
Q What else did he say? A And he asked me where she came from; I told him she come from Texas; I told him she come over in the Choctaw Nation and married and stayed there until she raised her five children, or until she had her five children. He asked me where she come from when she came to the Cherokee Nation and I told him I don't know.
Q You were talking about a conversation you had nine years before? A Yes sir.
By W. W. Hastings: What name did this woman go by when she first came up there? A Sheppard.
Q What name did her children go by? A McClaren or McClenan, somethink like that.
Q Did any of these children go by the name of James then? A No sir. They were McClaren or McClenan, one or the other.
Q Something that sounded like that? A Yes sir.
Famous Smith recalled and examined by W. W. Hastings:
Q What name did these older children go by? A McClenan or McClaren, or something like that. I never knewed them by the name of James. I always knewed them by the name of McClenan.
By Edgar Smith of Famous Smith: Are you speaking now of the sons of Nancy Sheppard? A Yes sir; said to be her sons.
Q Mr. Smith, they voted in the elections down there, didn't they? A Yes sir, they voted in the last election is the only one this agreement, this treaty roll is the only election I knowed of them voting in.
Q To refresh your recollection, haven't you gotten them to vote for you? A I don't know that I have.
Q Do you know that you haven't? A No, I don't know whether I have or haven't.
Q Did your brother ever run for office down there, or did you have a brother? A Yes, I had a brother.
Q Did he run for some office? A I used to have a brother that was Clerk of the District there.
Q Did these boys vote for him? A I don't think they were old enough then; it has been a good long while ago.

Q Well, you are the man that looked up the witnesses in this case, areyou, Mr. Smith? A I knowed of these witnesses there.

John Melton, being sworn and examined by Commissioner T. B. Needles, testified as follows: Witness on behalf of the Cherokee Nation.
Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your postoffice? A Benge.
By W. W. Hastings, Cherokee Attorney: How far do you live from Fort Smith? A Four or five miles.
Q Where did you live in the fall of 1866? (Not answered.)
Attorney Smith: Have you ever been convicted of any offense?
A No sir.
By W. W. Hastings: Where did you live in the fall of 1866? A I lived in Fort Smith principally.
Q When did you move over to the Cherokee Nation? A Along in December, '66.
Q Where did you live in the early winter, in January and February of '67, and spring of '67? A I lived on the Campbell place.
Q How far is it from what is known as the old Franklin place to the Campbell place in Sequoyah District? A The houses are some three-quarters of a mile apart.
Q Do you know Nancy Sheppard, the applicant, did you ever see her? A I have here of late. I seen her before the war, I reckon, but I wouldn't know her now. I am identifying her from the time I seen her.
Q You were living on the Campbell place which was three-quarters of a mile from the Franklin place in '67? A Yes sir.
Q Did you ever see this Nancy Sheppard down there in the spring of '67? A Not that I know of.
Q You were pretty well acquainted there at that time? A Yes sir.
Q You worked there on the Franklin place that year? A No sir.
Q What did you do that year in '67? A I cultivated land on the Campbell place that year.
Q When was the first time you saw this applicant to know her after the war? A Here during Court at Fort Gibson.
Q This Dawes Commission? A Yes sir, in May.
Q In April, wasn't it? A Yes, April.
Attorney Smith: Which was it April or May? A April.
Q It was January, wasn't it? A I reckon not.
Q What year was it in? A In 1901.
Q Well now, where were you in 1867? A I was down here on the Campbell place; this side of the river from Fort Smith.
Q Who was there with you? A Me and my mother and her children all lived together there.
Q Where did you go to during the war? A I went out to Texas.
Q When did you get back? A In '65. I worked in the nation here in '65 some, passing backward and forward, stayed some time on this side of the river and some time on the other.
Q Are you on the 1880 roll? A Yes sir.
Q Do you say you knew Nancy Sheppard before the war? A I knowed a young woman, a young girl, so said to be Bossen Lynch's daughter, but from the time I seen her until I seen her again I couldn't identify her to be the same person or not.
Q How long has that been, forty years? A I seen her just before the war commenced.
Q Didn't you see her anymore until this year? A No sir.
Q You don't know where she was in 1866, do you? A No sir.
Q Or '67? A No sir, I don't remember of seeing her; if I seen her, I don't recollect.
Q How far is that Campbell place from Fort Smith? A It is hardly a mile just on this side of the river.
Q In 1867, wasn't you in Fort Smith? A I wasn't living there.
Q What were you doing at Fort Smith working there? A No sir, I never worked any in Fort Smith in '67; I worked altogether on this side of the river.

Q That is all you know about it, is it? A Yes sir.

Recross examination of Applicant by Attorney, W. W. Hastings, for the Cherokee Nation:
Q Did you work for a man by the name of Dr. Bradford, in Rusk County, Texas? A I don't remember if I did; I worked for several.
Q Don't you remember Dr. Bradford in Rusk County, Texas? A No sir, it don't seems as if I do. I don't remember of working for anyone but Brown.
Q I want to know if you could think after refreshing your memory where you were married the first time? A I was married down - well, I did say it was in the Cherokee Nation, but since I found out the distance in the rivers, I was married in Poteau bottoms.
Q In the Choctaw Nation? A Yes sir, between those two rivers.
Q Did these oldest children of yours go by the name of McClenan?
Q They do down home; their father's owner was named McClenan, and they would rather carry that name; they wanted to go by the father's master's name, but his name is James.
Q Was that your first husband? A Yes sir.
Q That was the first man by whom you had a child? A No sir, it wasn't.
Q What was your first husband's name? A They called him - I didn't stay with him but a little while.
Q What name did he go by? A He principally went by - well I don't know his name. McClenan was the next man. I might say wrong.
Q You don't remember what his name was? A Yes, he went by Jerry.
Q You don't remember his other name? A No sir.
Q Where did you live with him? A I didn't live with him no time; I only stayed with him about a week.
Q Did you have any child by him? A No sir.
Q The first child you had was by McClenan, or whatever it was?
A Yes sir, my children are all James', but his master was McClenan, and they would rather have that name. Some of them voted McClenan and some of them voted James.
Attorney Smith: Do you know Famous Smith? A I don't hardly know him when I see him.
Q Did he come to your house to serve notices on you in this suit?
A Yes sir.
Q You heard his statement that you told him that you had been given by Joe Lynch to Jim Bell? A Yes sir.
Q Did you make such a statement as that to him? A No sir, because I couldn't do that.
Q Just answer the question? A No sir, I didn't.
Q You heard his statement that you had just drifted around in the Choctaw Nation and hadn't come back here until a short time before you went to Webbers Falls, with something substantially like that - did you make such a statemant as that to him? A No sir, he never asked me and I never told him. I asked him what was the matter, and he said, I don't know. He handed me the notice. I said I want you to read this to me and he did, and let me know if Ihave to produce witnesses or not, and he read it, and said yes; I asked where is Mrs. Lynch and he said she went to the Springs, and I said I would have to get somebody else.
Q Did you have any talk at all as to the time you come back to the Cherokee Nation after the war? A Never has inmy life.
Q Who was there when Famous Smith came to serve these notices?
A Roxie Childers, Jimmie James and Jim Jones were standing at the fence when I received the papers.
Q Were they present when you and Smith were talking? A Yes sir, standing right at the fence. He handed the papers over the fence to us.
Q Do you know Mrs. Hilderbrand? A Yes sir.
Q You heard her statement, did you have any conversation with her - were you at her house when her mother died? A Yes sir, I was there when her mother died.
Q You heard what she stated, did you tell her that? A No sir.
Q Do you know who else was there when you were at her house?

A There was a whole lot; I couldn't tell you who all.
Q How long ago has it been? A I can't count the years like she can. I can count it so you can count it.
Q It has been a good while has it? A I made two crops on her mamy's place and the second year I stayed there her mother died, and we still made a crop, and then I moved down to the Starr place and I stayed there one year and then I moved to the Blackstone place one year and I been on the place I have now for five years.
Q What was it you say about being married to a man named Jerry before you married James - what became of Jerry? A Dead I reckon.
W. W. Hastings: Well now, I will ask you again, you didn't know before, but who did you come back to the Cherokee Nation with when you first come back? A With the Campbell darkies, Fanny Campbell, but they stopped in the Choctaw Nation somewhere, I don't know what they call it, but over there somewhere, they couldn't get home, and the Campbell darkies come on across and I come along with them.
Q Which one in particular? A Old Uncle Jack Campbell, old Caroline Charles. I remember them alright, and they had one girl I believe she was named Caroline, and a whole lot more colored folks that lived over here; I was young, I don't remember.
Q Who did you live with the first year? A I always said it was a Smith; I didn't live with them particularly; anywhere where I could get anything to eat.
Q How far from the Franklin place? A I don't know.
Q How far from Fort Smith? A It was pretty close to Fort Smith.
Q About how many miles? A I don't know.
Q Two or three? A I don't know.
Q As much as five? A I don't know. You all know better than I do.
Q You can form an estimate how far you lived? A It wasn't so very far.
Q Was Smiths a Cherokee family with whom you lived? A I don't know; they claimed it.
Q You don't know? A No sir.
Q How far were you from the Arkansas River? A It wasn't so far. I don't know the distance.
Q Were you near to it or some distance from it? A I wont tell it because I have no mind of it.
Q Was it within two or three miles? A I don't know it wasn't far.
A It may have been one and a half miles and maybe two miles; I don't know.
Q Is that your best knowledge one and a half miles or two miles? A Itmight have been that; I don't know.
Q You think it was about that far? A Somewhere along there, I reckon, I don't know.
Q On which side of the river did you live? A This side.
Q Was that east, or west, or north? A I don't know. I don't know any dates, can't count 100; I can only count one, two and three.
Attorney Smith: Go on now, if you can, and tell me after you got back here at the bottom near Fort Smith, where you lived as well as you can up to the time you went to Webbers Falls?A I lived in between them two rivers, stayed in there with some colored people and then I come from there up that river and come over on this side up there in the mountains on that river, and lived a while between Muskogee and Canadian River and there I stayed a good while, I just don't know how long.
Q Where did you go from there? A I come down to Lynch's ranch.
Q Where is it now? A I don't think it was his then; it is called Lynch's ranch now.
Q How long were you there before you went down into Webbers Falls neighborhood? A I was up at Lynch's ranch about a year.
Q Where did you go from Lynch's ranch? A I went down to Miss Lynch's and he got some land for me and we planted a crop, and the horse died, and he told me to go out in the slash, from town, and

make a crop there.
Q Have you any idea, or can you not tell how long you lived in the Arkansas River bottom before you went up on the Lynch Ranch? A No sir, I really can't. I can't count unless I count the crops I seened made. I know I stayed there until they made two crops and gathered it.
Q State where? A Down close to the Campbell place. I always said it was on the Campbell place. I don't know whether it was or not; I said it was the Campbell place.
Q Was that in the Cherokee Nation? A Yes sir.
Q How far from Fort Smith? A I couldn't tell.
Q And you stayed there two years?A Yes sir, they made two crops and gathered them.
Q Where were you living nearest to what town before you went to the Lynch place? A Checotah and Whitefield; there was nothing there hardly, no buildings much.
Q Do you remember how far you were from Whitefield? A No sir.
Q On which side of the river was you on? A On this side.
Q Where have you been all the time now between the time you were living right at the place that you went from to the Lynch place and the time you left the Campbell place, if it was the Campbell place? A I must have stayed between those two rivers, I reckon, maybe about six or seven years, backwards and forth; you know we didn't have no place.
Q How far is it if you know from Fort Smith to Whitefield? A Lord in heavens knows, I don't know, it is a good ways.
Q How many places did you live on, the place you lived on near Fort Smith, and the place at Whitefield? A I can't remember all the places; we just rented. At first we didn't rent, I worked around for my living for one and then another. I reckon some Choctaws, Cherokees and colored along that way, but then after I tried to settle down and had a few children then we rented.
Q Can you give us an idea how many places you lived on between Fort Smith and the place you wereliving on near Checotah? A No sir; four or five.
By W. W. Hastings: What were the names of those rivers you lived between? A One is Poteau.
Q What is the other?A Arkansas.
Q It is between those rivers you lived in between '67 and '68 when you made two crops? A They made two crops; I never made none.
Q That is where you were living? A No sir, I was on this side close to the Campbell place.
Q Who was making the crops over there between the rivers? A Colored folks and some Cherokees.
Q And you stayed over here a couple of years, did you? A Yes sir.
Q You don't know who you were with? A Old man Jack Campbell a while.
Q On the Campbell place? A Yes sir, backward and forward down there. I don't know the other people; they were Cherokees, but I don't know their names.
Q With the exception of those people you can't tell the names of any Cherokees with whom you lived or on whose place you lived until you come to Canadian District in the eighties in the Cherokee Nation? A I can't tell you none but the Campbells is all. I might if I could think over it.
Q It is your business to think over it? A I knowed I stayed -I went over to an old man's name I won't forget, if I think his name was Sharnecko or Yarneko, or something like that; I cooked and washed for him.
Q How long did you stay there? A I don't know how long.
Q When was that? A When I was down there on the river.
Q In '67? A I don't know anything about '67.
Q Was that after you first come back after the war? A Yes sir.
Q Where did Yarneko live? A Down the river up in the mountains.
Q How far from the Campbell place? A I don't know.
Q About how many miles? A I don't know; I told you I couldn't count.
Q Wasit a half days drive? A They would go in the morning

and come back before night. I couldn't tell.
Q What kind of a house did Yarneko live in? A Old log house.
Q Did he have a family? A He had a woman.
Q Did he have any children? A No sir.
Q How long did you stay with Yarneko? A I don't know how long; three or four months; maybe longer than that. I just couldn't give no length of time because I don't know.

Supplementary evidence in the case of Nancy Sheppard et al. D-10 to be filed in cases of Frances Walker et al. D -11. Rockey Childers, D-12, Allen James, et al. D - 13, Archie James, D - 15, and Mollie Reed, D -16.

By agreement of Counsel, the supplementary testimony taken this day will be made a part of the record in the cases of the applications of the above parties and a copy of the supplementary testimony will be filed with each of the applications above named.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

J. P. Rothenberger.

Subscribed and sworn to before me this 27th day of July, 1901.

J. J. Brosard

~~Commissioner~~.
Notary Public

FILED
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File with C. F. D- 12, Rockey Childers.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., Sept.23,1901.

In the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman. C.F.D-10

Appearances:
Mr. Smith, of Mellette & Smith, for applicant,
Mr. W. W. Hastings, for the Cherokee Nation.

TESTIMONY TAKEN ON THE PART OF THE CHEROKEE NATION.

Com'r Needles? Witnesses placed under the rule.

RACHEL GUNTER, being sworn by Commissioner Needles, testified as follows:
BY MR. HASTINGS:
Q What is your name? A Rachel Gunter.
Q What is your age? A I don't know exactly, I think my age is near about 50 years old.
Q You were born before the war? A Yes sir
Q Wheredo you live now? A Webbers Falls.
Q How long have you been living there? A Been living there all my life, I was born in Flint District. And I have been living there ever since the war, I was brought back there.
Q Do you know a colored woman down in Canadian District near Webbers Falls by the name of Nancy Sheppard? A Yes sir.
Q How long have you known her? A Only about 15 years is all the long I have knowed her.
Q How far do you live from her? A About a mile and a half I think, as near as I can guess.
Q How long has she lived that near you? A She has lived right close around there ever since I got acquainted with her.
Q Has she any children? A Yes sir.
Q Give the names of some of them? A Frances Walker, Rockey Childers, Allen McClellan, Archie McClellan, Bennie McClellan.
Q Those are her children are they? A She said they was hers, I don't know them to be hers.
Q You know where Nancy Sheppard moved from when she moved to your neighborhood in Canadian District? A Said she come from the Choctaw Nation.
Q You know where she moved from when she moved to the Choctaw Nation? A Said she come from Texas, and that's all I know about it.
Q You know when these children of hers that you have mentioned came into Canadian District, before or after their mother, or about the same time? A They all come there about the same time, but Mrs. Walker, she was married, and she come a year or two after her ma did, but the rest of them she brought them there with her.
Q You think Frances came a little later? A Yes sir, she come a little later.
Q Who was she talking to or with when she was telling about her whereabouts? A She was talking to a preacher named Kinney Wickliffe, and he was at my house, and I was present; what I know I heard it; she was talking to him and I was present.
Q You never saw her in that country until about 15 years ago?
A No sir.
Q You know her before the war? A No sir, 15 years is all I know her.
Q She and Wickliffe come from the same country? I think so, they seemed to be well acquainted with each other.
Q Talking about old times? A Yes sir, talking about old times, that I didn't know nothing about.
BY MR. SMITH:

Q Where was she when she and Wickliffe were talking?A They were at my house.
Q Anybody else there besides Wickliffe? A ~~Ok yes~~,There was only us three and some small children I had.
Q Wickliffe is dead is he?A Yes sir, I suppose he is dead. I heard he was dead.
Q Did she ever make any statements to you in the presence of anybody that's alive now? A I never heard her say any more about it after that, to my recollection.
Q How long ago has that been? A She hadn't been threr more than two or three years when I heard her tell that preacher that.
Q That has been some 12 or 13 years ago has it? A I don't know now, I can't tell; I hadn't been acquainted with her but a short while.
Q You say she has been living over there about 15 years? A Yes sir
Q And that was a couple or three years after she came there? A Yes sir, I think it was, as near as I can guess at it, I don't know positively,it was that time; I know I heard it, the preacher was there at my house.
Q When was the next time you thought about that conversation afterwards? A It didn't bother my mind nothing about it to know anything about it until I heard that I had to come up here, and they told me what I was coming for, and I said I didn't know nothing about it, that was all I knowed.
Q Who told you? A Famous Smith.
Q He told you? A He was the fellow said he had me subpoenaed up here; I told him I didn't know nothing about it, but that short time I got acquainted with her and heard this talk, that's all I knowed.
Q Famous Smith had you to come up here?A That's what he said.
Q When did he tell you that?A About a month ago. But I thought he was joking; I never expected to come at all.
Q What wasit Famous Smith said to you? A He told me I had to witness against Nancy Sheppard; I said what for, I don't know nothing about her; I said you know her better than I do; he said I don't know nothing about her, he told me I did, I told him I didn't.
Q He said you did know something?A Yes sir.
Q And you said you didn't? A Yes sir, I told him I didn't.
Q And he had his way about it, and you did? A Yes sir, of course if I could have kept out of it I wouldn't have come.

BY MR. HASTINGS:

Q He had~~ayxx~~ subpoenaed for you? A Yes sir, he had a subpoena; I told him I couldn't read and he read it to me.

BY MR. SMITH:

Q Did Famous finally tell you about this statement that you have made? A I asked him what did he want me to state about it, and he told me, well I says I don't know nothing about it.
Q You asked Famous Smith what did he want you to state?A Yes sir.
Q What did he say? A He says about how long she been here and where she come from; I says you know her, I didn't know her when she lived up there on another place; Webbers Falls was the first place I got acquainted with her.
Q You told Famous you didn't know where she come from? A Yes sir.
Q Then what did he say? A Told me I had to come up here.
Q Did he tell you whathe heard, say something about where she came from? A Yes sir, he heard that I said so, and I told him I didn't say so, I told him I didn't because I didn't want to come.
Q He said you did? A Yes sir.
Q What did he tell you you said? A He didn't tell me what Isaid; he said I would have to tell it; told me if I was brought up here to swear the truth I would have it to tell; I told him I wouldn't tell nothing but the truth.
Q Who is this man that came here with you? A That's my brother.
Q Was he there when Famous Smith come to see you? A No sir, he was

at his own home or somewheres else.
BY MR. HASTINGS:
Q Have you told the truth? A Yes sir.
Q Did Famous ask you to tell anything else but the truth? A No sir, he didn't ask me to tell a word but the truth.

MOSE PARLOR, being sworn by Commissioner Needles, testified as follows:
BY MR. HASTINGS:
Q What is your name? A Mose Parlor.
Q What is your age? A 41.
Q What is your post-office? A Webbers Falls.
Q You live in Canadian District? A Yes sir.
Q You know Nancy Sheppard? A Yes sir.
Q How long have you known her? A I have known her about 15 years I guess, somewheres along in there
Q You know her family? A Yes sir, I know them.
Q Name some of her children? A Well, Rockey and Frances and Allen and Archie and Bennie.
Q What did Allen go by when he come up in thereThey went by McClennan.
Q What did Rockey go by, she married? A Yes sir, she had been married.
Q Was Frances married? A Yes sir, she is married.
Q Well then younger children, younger than Allen, what do they go by, did Archie go by McClellan? A Some call him McClennan and some James.
Q You know where these people came from when they came to Canadian District?A No sir, I don't know.
Q Did you ever hear them say? A I think I heard them say they come from the Choctaw Nation into the Cherokee Nation.
Q Are you positive about that? A Yes sir, I think she told me that I think I heard her say that.
Q Did you ever her say anything about her other whereabouts, where she came from to the Choctaw Nation? A I think she said she went from down in the lower part of the Cherokee Nation down there close to Fort Smith, down into the Choctaw Nation.
Q Did you ever hear her make any other statement? A No.
MR. SMITH waives examination of this witness.
BY MR. HASTINGS:
I want that filed with D-11, Frances Walker, D-12, Rockey Childers, D-13, Allen James, D-15, Archie James, and D-16, Mollie Reed/

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this September 26th, 1901.

C. R. Breckinridge

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Nancy Sheppard et al. for enrollment as Cherokee Freedmen, consolidating the applications of

Nancy Sheppard et al.----------Cherokee Freedmen D 10,
Frances Walker et al.----------Cherokee Freedmen D 11,
Rocky Childers----------Cherokee Freedmen D 12,
Allen James et al.----------Cherokee Freedmen D 13,
Archie James----------Cherokee Freedmen D 15,
Mollie Reid et al.----------Cherokee Freedmen D 16.

D E C I S I O N

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Nancy Sheppard, for herself and minor child, Benjamin James; by Frances Walker, for herself and minor nephews, David and Willis Walker; by Rocky Childers, for himself; by Allen James, for himself and minor child, John A. James; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Reuben James; by Archie James, for himself; by Frank Reid, for himself and wife, Mollie Reid; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Daniel Reid (the said Frank Reid is differently classified and is not embraced in this decision).

The evidence shows that the said Nancy Sheppard was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee Nation during said war but returned thereto in 1866.

The evidence further shows that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that, in 1885, she returned to the Cherokee Nation and has since continuously resided therein. All the other applicants herein are the children or grandchildren of the said Nancy Sheppard, born since 1866, and have resided continuously in the Indian Territory since birth.

It is, therefore, the opinion of this Commission that Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allen James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.

(SIGNED) T. B. Needles.

(SIGNED) C. R. Breckinridge.

(SIGNED) W. E. Beamer.

Muskogee, Indian Territory,

this DEC 1 1903

Cherokee F-1275.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Tahlequah, I. T., August 19, 1904.

In the matter of the application of ROCKY FISHER, formerly Rocky Childers, for enrollment as a Cherokee freedman.

SUPPLEMENTAL TESTIMONY.

Rocky Fisher, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Rocky Fisher.
Q How old are you? A I don't know exactly how old I am; I recon about 33.
Q What is your postoffice? A Oktaha.
Q Are you a Cherokee freedman? A Yes sir.
Q Under what name were you enrolled by the Commission? A Rocky Childers.
Q Have you married since you were enrolled? A Yes sir.
Q When were you married? A Married the 5th day of last July a year ago.
Q Who were you married to? A Robert Fisher.
Q Is he a citizen? A No sir.
Q Are you and he living together now? A Yes sir.

- - - - - - - - - -

I, May Hudson, state upon oath that as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the supplemental testimony in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

May Hudson.

Subscribed and sworn to before me this 20 day of August, 1904.

Samuel Foreman
Notary Public.

D

F. D 12

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 18 1901

ACTING CHAIRMAN.

NOTICE!

In the matter of the application of Rocky Childers et al for enrollment as a Cherokee Freedman.

Case No. D 12

To Rocky Childers

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: May 21 st & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 12 day of May 1901.

L. B. Bell
W. W. Hastings
J. S. Davenport

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to Edgar Smith atty for Rocky Childers on the 18th day of May A. D. 1901.

Emmett Starr

Subscribed and sworn to before me this 18 day of May 1901.

J C Starr Notary Public.

MY COMMISSION EXPIRES
MAY 26th, 1902

D F D 12

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 21 1901

ACTING CHAIRMAN.

NOTICE!

In the matter of the application of Rocky Childers et al for enrollment as a Cherokee Freedman.

Case No. D 12

To Rocky Childers

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee Indian Territory, on the following dates, to-wit: May 21st & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 14th day of May 1901.

L. B Bell,

W. W. Hastings,

J. S. Davenport,

Per

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to Rocky Childers on the 14th day of May A. D. 1901.

Subscribed and sworn to before me this 21st day of May 1901.

Famous Smith

J C Starr Notary Public.

(Seal)

9. J.R.O. 12

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 11 1902

ACTING CHAIRMAN.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Rocky Childers,
Webbers Falls, I.T.
Cherokee F-D-12
Register.

Cherokee P.D.10-11
12-13-15-16.

Muskogee, Indian Territory, December 3, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1903, in the consolidated case of Nancy Sheppard et al., granting the applications for the enrollment of Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allen, John A., Reuben and Archie James, and Mollie and Daniel Reid as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Blackburn.

Enc. D-8.

Cherokee Freedmen
D--12

Muskogee, Indian Territory, January 5, 1904.

Rocky Childers,

Webbers Falls, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself as a Cherokee Freedman, together with a copy of the Commission's decision dated December 1, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished you by the attorney for the Nation.

The decision with the record of proceedings had in the case has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Encl.-4
Register.

Cherokee Freedmen D-10-11-12-13-15-16.

Muskogee, Indian Territory, January 5, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the consolidated case of Nancy Sheppard, et al., including the Commission's decision dated December 1, 1903, granting the application for the enrollment of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen, John A. and Reuben and Archie James and Mollie and Daniel Reid as Cherokee Freedmen.

You are advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest is inclosed.

Respectfully,

Encl. V-8

Chairman.

Through the
Commissioner of Indian Affairs.

Refer in reply to
the following:
LAND.
1837/1904.

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, March 3, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith for the consideration of the Department the record of the proceedings had before the Commission to the Five Civilized Tribes in the matter of the application of Nancy Sheppard for the enrollment of herself and minor nephews, David and Willis Walker; of Rocky Childers for the enrollment of herself; of Allen James for the enrollment of himself and his minor child John A. James; of Archie James for the enrollment of himself; and of Frank Reid for the enrollment of himself and his wife Mollie Reid; all as Cherokee Freedman Citizens of the Cherokee Nation.

On December 1, 1903, the Commission rendered a decision in this case, wherein it appears that subsequent to the application of the said Allen James, he filed a birth affidavit showing the birth of Reuben James and that subsequent to the filing of the application of the said Frank Reid, a birth affidavit has been filed, showing the birth of Daniel Reid.

It further appears from said decision that the application of the said Frank Reid for the enrollment of himself is not considered in this decision, as he is differently classified from the other

applicants.

The Commission further finds from the evidence that the said Nancy Sheppard was a slave of a Cherokee Citizen at the beginning of the war and that she was taken out of the Cherokee Nation during said war, but returned thereto in 1866; that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that in 1885 she returned to the Cherokee Nation and has since continuously resided therein; that all the other applicants herein are the children of grandchildren of the said Nancy Sheppard, born since 1866 and have resided continuously in the Indian territory since birth.

By reason of said facts and findings, the Commission is of the opinion that the said Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allan James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee Freedmen citizens of the Cherokee Nation, in accordance with the provisions of Sec. 21, of the Act of Congress approved June 28, 1898, (30 Stats., 495).

To said decision of the Commission the Cherokee Nation files a protest, wherein it is set out that the testimony of the principal applicant, Nancy Sheppard, is very unsatisfactory and is only supported by the testimony of one witness, Fannie F. Kiddy, whose reputation is not of the best and whose record before the Commission is not at all satisfactory.

The Nation then invites attention to the testimony of other witnesses tending to show that the principal applicant did not return

to the Nation in 1866 as claimed by her.

I have examined the evidence in this case and also consider that the principal applicant's testimony is very unsatisfactory and in that regard I agree with the protest of the Cherokee Nation, but I also consider that the testimony submitted by the Nation is about as unsatisfactory as that of the applicants; and taking this view of the testimony of both sides, I do not on the whole feel warranted in disturbing the decision of the Commissionx, as it saw the witnesses, heard them testify and is better able to judge of the weight to be given their testimony than any one else. I therefore concur in said decision and recommend that it be affirmed by the Department.

Very respectfully,

WCB-H

Acting Commissioner.

D C 11276-1904. COPY. W.C.F.

I.T.D. 1842-1904. DEPARTMENT OF THE INTERIOR, FHE

LR.S. WASHINGTON.

April 6, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 5, 1904, you transmitted the record in the matter of the application for enrollment as Cherokee freedmen of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen and John A. James, Reuben James, Archie James, Mollie and Daniel Reid, including your decision of December 1, 1903, in which you held that the applicants should be enrolled.

The original application included the name of Frank Reid. You state in your decision that he is differently classified. He is therefore not embraced in this decision.

The attorney for the Cherokee Nation protests against your decision.

Reporting March 3, 1904, the Acting Commissioner of Indian Affairs states that while the evidence introduced on both sides is unsatisfactory, yet it is his opinion that your decision should be approved, and he so recommends.

The Department concurs in said recommendation, and your decision is accordingly affirmed.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

(Signed) Thos Ryan,
Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-12.

Muskogee, Indian Territory, April 16, 1904.

Rocky Childers,

Webbers Falls, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 1, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
B-10, et al.

Muskogee, Indian Territory, April 14, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 1, 1903, in the consolidated case of Nancy Sheppard, et al., granting the applications for the enrollment of Nancy Sheppard, Benjamin, Archie, Allen, John A. and Reuben James, Mollie Reid, Daniel Reid, Rocky Childers, Frances Walker, David and Willis Walker, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

WEBBERS FALLS
1904
FEB
10AM
IND. T.

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, $300.

7

Unclaimed.

MUSKOGEE

Rocky Childers,

Webbers Falls, Indian Territory.

WEBBER

REGISTERED
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Registered 3

Cher Fr 1276

see Cher Fr 1273, 4, 5, 7, 8

Cher Fr 1276

DEPARTMENT OF THE INT...
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 5 1901

ACTING CHAIRMAN

R-213

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 5, 1901.

In the matter of the application of Allen James for the enrollment of himself and one child as Cherokee Freedmen.

Allen James, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Allen James.
Q How old are you? A I suppose I am about 23 or 24.
Q What is your post office address? A Webbers Falls.
Q What district do you live in? A ~~Webbers Falls~~. Canadian.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Did you ever make application to any other nation or tribe to be enrolled? A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir, I have.
Q Is your name on the roll of 1880? A I suppose it is.
Q What is your father's name? A Ike James.
Q What is your mother's name? A Nancy Sheppard now.
Q Where were you born? A I can't exactly tell you, but my mother always told me I was born in the Cherokee Nation.
Q Is Isaac James living? A No, sir, he is dead.
Q Was he a Cherokee Freedman? A No, sir.
Q He was a non citizen? A I suppose so.
Q Who do you desire to have enrolled besides yourself? A One child; here is the papers.
Q What is the name of that child? A His name is John Allen James.
Q You say here his name is John James? A Well John James, or John Allen James, either way.
Q His name is John Allen James? A Yes, sir.
Q How old is he? A He is 6 months old.
Q How long have you been living in the Cherokee Nation? A I have been in the Cherokee Nation ever since I can remember anything.
Q What is your wife's name? A She is named Evie James.
Q Is she living? A Yes, sir.
Q Is she a citizen? A No, sir.

The 1880 authenticated roll of Cherokee Freedmen examined, and the name of the applicant not found thereon.
The 1896 census roll of Cherokee Freedmen examined and the name of the applicant not found thereon.
The Kerns-Clifton pay-roll examined, and the applicant identified thereon, page 108, No. 2698, Allen James, Coowee-scoowee district.

Q You say you have always lived in the Cherokee Nation? A Yes, sir, ever since I can remember.

Commissioner Needles: Allen James applies for the enrollment of himself and his child, John A. James. His name is not found on the authenticated roll of 1880 and the census roll of 1896. His name is found on the Kerns-Clifton pay-roll. He is duly identified, and makes satisfactory proof as to the residence of his child, John A. James, proof being filed herewith. He avers that he is the son of Nancy Sheppard, whose application is on file in case No. 810, and reference is made to the testimony in the case of said Nancy Sheppard as to the citizenship of herself. Further consideration of the case of Allen James will be suspended, and his name will be placed upon a doubtful card with his son, John A. James.

****

A.J.- 2.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 5th of April, 1901.

Commissioner.

13 F.N. 13

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 5 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date APR 5- 1901

Post Office Webers Falls

District Canadian

1. Name Allen James Age 23

Owner's name Citizenship

Year R. C Page 108 No. 2698 District Coo

Parents:

Father Lee James Citizenship (Non citizen) Dead.

Mother Nancy James Citizenship Colored

2. Name of wife Age

Owners name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. John ~~Allen~~ James Year Page No. Dist. 6 mos.

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by Self Stenographer James B. C.

(3) Affidavit of Birth filed

Tf-N 13

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
APR 5 1901
ACTING CHAIRMAN

1913

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 5, 1901.

In the matter of the application of Nancy Sheppard for the enrollment of herself and one child as Cherokee Freedmen.

Nancy Sheppard, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Nancy Sheppard.
Q How old are you? A I don't know.
Q About how old? A I am about 54 or 55.
Q What is your post office? A Wagoners Falls.
Q What District do you live in? A They say it is in Canadian.
Q Do you make application to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Did you ever apply to be enrolled by any other nation or tribe?
A No, sir.
Q Have you been recognized by the Cherokee Authorities as a Freedman? A Yes, sir, always was.
Q Who is you applying to enroll besides yourself? A My children.
Q How many children have you got? A I have got five.
Q Give me the name of the oldest of the children under 21 years of age? A Henrietta, but the oldest one is named Allen, he is over 21.
Q How old is he, is he the oldest one? A No, sir, I have got a girl that is older than him.
Q How old is Allen? A He is about 21, but he is married.
Q How old is Benjamin? A He is 19.
Q What is the next child? A They are all married but Benjamin.
Q His name is Benjamin, isn't it? A Henrietta, but they call him Benjamin.
Q Were you a slave? A Yes, sir.
Q What was the name of your owner? A Joe Lynch.
Q Is he living? A No, sir, he is dead.
Q Where were you at the beginning of the war between the United States and the Confederacy? A They told me, I don't know the districts —
Q What Nation were you in? A In the Creek Nation on Green River.
Q Were you taken out there in the war? A Yes, sir.
Q Where to? A I don't know where they carried me to, but I reckon they must have carried me south from what I can learn.
Q What time did you come back? A I came back in the fall after the war was over.
Q Where did you come to? A Come home on the river.
Q In the Creek Nation? A Yes, sir, they say it was in the Cherokee Nation.
Q Have you always lived in the Cherokee Nation since that time?
A Well, yes, sir, principally; I have had no home at all until I got a home here, but just lived around from place to place, sometimes three months and six months —
Q Where, in Arkansas? A No, sir.
Q Texas? A No, sir, in the Cherokee Nation.
Q Did you ever live in Arkansas? A No, sir.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Aaron Sheppard.
Q Is he a citizen? A No, sir.
Q What was your father's name? A Noah Lynch.
Q What was your mother's name? A Miley Lynch.
Q What was your name in slavery days, in 1860? A I don't count the years that way.
Q How many times have you been married? A I have been married three times.
Q What was your first husband's name? A James.

POOR ORIGINAL -
BEST AVAILABLE COPY

N.S.- 2.

Q What was your second husband's name? A His name was John Jones, but I haven't got any children by him.

Q What is Benjamin's name? A Benjamin Jones; they are all on the roll by the name of Jones.

Q Is your name on the roll as Jones? A Yes, sir.

Q What is your eldest child's name? A Nancy Jones, but she is married, she is a Childers.

Q How old is she, do you know? A No, sir. I don't know my own children's ages at all.

Q Did you hear the girls money? A Yes, sir.

Q Did you know that any money was due to you? A Yes, sir; I saw my name right in yonder yesterday, on the papers, in that other house, me and all the children.

The 1880 authenticated roll of Cherokees was then examined and the enrollments not identified thereon.

The 1883 census roll of Cherokees was then examined and the names of the enrollments not identified thereon.

The Dawes-Allison pay-roll of 1894 was then, and the enrollment identified thereon as follows:

Nancy Jones on page 105, No. 3668, Cooweescoowee District, as Nancy Jones;

Benjamin Jones on page 108, No. 3700, Cooweescoowee District, as Ben Jones.

Q What is all the roll your name is on. A It must be on the other one too, some of them; I was taken once with the Cherokees, he was Mr. Mills, and before Mr. Dawes.

Q Have you met anybody that knew you and knew all about you?

A Yes, sir.

Q Where are they? A Two of them here, they are here.

Examined by C.E.Martin, Attorney for Cherokee Nation: Didn't you never belong to Jim Hall? A No, sir.

Q Did you belong to Mrs. Susan Lynch's husband, Joe Lynch?

A Yes, sir.

Who did you come back to the Cherokee Nation with after the war?

A This lady can tell you better than I can.

Q Don't you know? A I don't know all the people, there was just a mass full coming back, and I just got in with them and came.

Q Don't you know any of them? A Yes, I know the Campbells, and I know the — but I can't call the names, but this lady knows, I can't think of them.

Q Don't you know any of the men of the ? A I was so foolish minded; I came home with the black people; I know the black people better than the Cherokee people.

Q What black people did you come with? A Aunt Caroline Campbell and Jack Campbell and his wife.

Q Where did you come? A I came home on the Campbell place, I guess; in 1866 I became a little more where I was; was there several years, you know, and they said it was a thing a place by the name of the Hall place and Campbell place.

Q Were you with? A Yes, sir.

Q In the service there? A Yes, sir.

Q How long did you remain there? A We made two crops, two years.

Q Then he moved and you ? A I went at it across the river and went up the river, I didn't know the districts and I didn't know the lines, I had nobody to tell me, I was just by myself, and went up the river and went out there long to Whitefield and stayed out there about a year or maybe a little longer, I don't know just how long, then moved over in an over there somewhere I don't know what the district is named, I don't tell, and then when I was back up there I was afraid to quit me some people, I will tell you just might about it, and they told me that if I twenty come, I thought then I came to the Great River I was in the Cherokee Nation, and they told

me if I tried to go there I would be mobbed, and just to keep my mouth shut, and I never said any more till Mr. Lynch came of me and sent here for me to come home to Waxahachie Falls, and he told a man Hilliard to tell me to come home to him, he had heard of me; I reckon I must have been born here then.

Q When did you move the first time? A I can't tell you, I don't know the districts or nothing.

Q Don't you know the town and place? A I wasn't living in any town.

Q Were there any places you went to there to trade? A Some here about some with they traded.

Q Was that the town you were born and raised?

A Yes, sir, near about there somewhere, I don't know whether it is in the Cherokee Nation or the Choctaw Nation; I have just been mighty here in these nations, I know that.

Q Where were you married the second time to Jones? A Right here.

Q Post Oak? A No, sir, right down here at the Falls; that was below here, close about Lynch's ranch somewhere, I don't know whether in the Creek or the Choctaw Nation.

Q There was your second marriage? A Yes, sir.

Q Where? A Over there, I don't know the district, but close about Lynch's ranch somewhere in that mountains.

Mrs. Dennie T. Kidy, being duly sworn and examined by Commissioner Kapler, testified as follows:

Q What is your name? A Dennie T. Kidy.

Q About what is your age? A 49.

Q What is your post office address? A Alex.

Q Do you know Nancy Chouteau? A Yes, sir.

Examined by Mr. Hastings: What was your father's name? A Jack Campbell.

Q What was Nancy Chouteau's father's name, her maiden name, before she was married? A Mr. Hastings, when I know Aunt Nancy first, she was with Colonel Jim Bell's family, Mrs. Jim Bell.

Q To whom can tell what you know about it.

A Well, Colonel Jim Bell's folks, I was quite a small girl then, it was in about 62, they started to go to Texas, and they came down into Sequoyah and stopped down near my father's, about a mile away from him, and this woman Nancy took care of Mrs. Bell's children. She came in and out with Mrs. Bell's family like one family, and she belonged to Colonel Jim Bell and I knew her well.

Q That was in 1862? A Yes, sir, in 1862.

Q Go on, anything else? A Yes, sir; Colonel Bell's folks went south before he did and went to Texas, and in the fall of 1863 he came back to Skullyville, and we couldn't get our money, they were confiscated, and after the treaty of 1866 we moved to Ho a that fall and old Cherokees had bought in our place, and they allowed us to go on one end of it and live in a cabin, and in that fall Aunt Nancy came on with a lot of other Cherokees, and they came to our house.

Q What fall of what year? A 1866; after the treaty was made we got a home.

Cross-examination: And she was in and at 1866? A Yes, sir, she was in the fall, there was a lot of our neighbors came in from Ho a, you and also, and she was in the outfit.

Q Do you know anything about her whereabouts since that time?

A No, sir, I don't know until about ten years ago I heard; we were living there at home at Vian and Aunt Nancy came in, and we heard of her, and she went to see her because she was kind of Mrs. Bell's little girls and herself, and she came to see me and she [illegible]

bought a little place across Vian Creek, and so that is the last I know anything of Aunt Nancy since we all went back home.
Q That was about ten years ago, about 1880? A Yes, sir.

Mr. Hastings: How long did you know her in 1868? A I knew her about a year I guess, I don't know how long Colonel Bell stayed in our neighborhood; oh, in 1868, she was around there in the neighborhood quite a while but I don't really remember how long it was, I was just a little girl.
Q As much as years or two or three or four? A No, sir, I think she stayed three a year, maybe, or such a time.
Q Then from about 1867 or 1868 you didn't know anything about her until 1880? A No, sir, I don't know anything about her until her and Scott came and built a farm over there on Vian Creek.
Q She didn't tell you where she had been? A Yes, sir, she told me she had been living in the Choctaw Nation, and I think one of her stepsons, her was living in our neighborhood, and she told me she had married Isaac Jones first and I think they separated, but I know she had some interest in the child.
Q You say that it is a claim to a tract with a Chickasaw Cavalier in the fall of 1868; what Chickasaw Cavalier was she, do you know?
A She Franklin family, but I don't tell you any others to save my life; Mrs. Franklin knows, she came in about that time; I have tried to remember who Aunt Nancy came in with, but I can't remember to save my life unless it was the Franklin family that she came in with.
Q Did she leave them with the Franklin family? A No, sir, he left them with the Bell family.
Q She is mistaken about belonging to Lynch; she belonged to Colonel Bell? A No, sir, she belonged to Joe Lynch, but she was nursing for Mrs. Bell.
Q You don't think, then, of anyone else except the Franklin family that returned with them? A No, sir.
Q The place you have mentioned to which her coming back was just across the river from Fort Smith? A Yes, sir, she came to our house and she lived there in the neighborhood, but I was too small a girl, I don't remember so much, I didn't charge my memory with anything like that, but I know that Aunt Nancy was there and she used to come to the house and play with us on Sundays, and that is why I remember it so well.

Mrs. Susan Lynch, being duly sworn by Commissioner Hastings, testified as follows:

Q What is your name? A Susan Lynch.
Q About how old are you? A I am 51, going on 52.
Q Do you know Nancy Chickasaw? A Yes, sir.
Q What do you know about Nancy Chickasaw, did she belong to your family as a slave? A She didn't belong to my family, she belonged to Mr. Lynch.
Q Your husband's family? A Yes, sir.
Q What do you know in regard to her returning to the Chickasaw Nation after the war?
A I haven't know Nancy more than 14 or 15 years, but Mr. Lynch, in the round up, they found her some place below on Canadian, I don't know whether in the Choctaw Nation or in Canadian, but they had rounded some cattle from Mountain and then they went over after the cattle during the day there they found her, and then they sent back and sent word to her to come; that is the first I ever heard of her. A year or two after that she came, over up and at our ranch, they were very poor and I don't know how long she was out there, she was there

for some time before I heard anything about her.

Q Do you know when it was Mr. Lynch found her? A Mr. Lynch found her, I guess it was about 1885 I expect.

Q She belonged to Mr. Lynch? A Yes, sir.

Q Was Mr. Lynch a Cherokee citizen? A Yes, sir.

Q Then how long have you known Nancy? A Why she been over there, I guess about, it must have been 1888 or 1887; that is the time I know her; she was at the ranch, she was out in that neighborhood, and then she went to the falls.

Q You have known her since that time? A Yes, sir, ever since; while she was there, Lynch found out she had no rights, and he said he would try to get her on the roll, but they went to Tahlequah; she ought to be on the roll there.

Q Since 1887 or 1888 you have known her all the time since 1887 or 1888; I mean 1887? A Yes, sir.

Q Has she lived in the Cherokee Nation since that time? A Yes, sir, lived in the Nation, lived in Tahlequah and all the place about there.

By Mr. Hastings: Mrs. Lynch, where did your husband leave his application to come back to the Cherokee Nation? A My colonel Bell took him out, showed the house, and Joe Lynch came here, but she has passed for Mrs. Bell, and in the divide she went now and they took a hand, she stayed with Jim Bell, Jim Bell's wife and Joe Lynch were living on Cherokee, and they came on to Texas, and here Bell died in Texas, and I don't know exactly what he was o Nancy and Joe don't know, because he didn't have any family, and he came to here, and I think Tuck Bryant found her in the Choctaw Nation; he lived with us, and I am not certain, but think it was Tuck; he was one of our settle any well years, and I think he found her in the Choctaw Nation..

Commissioner Rogers: The name of Nancy Lynch is found upon the pay-roll of 1894. The name of her child Benjamin is found upon said roll. Her name is not found upon the authenticated roll of 1880, nor the census roll of 1896. She is duly identified, but evidence as to her citizenship is not conclusive, owing mainly her case will be continued and the name will be left upon the contested roll, together with her son Benjamin Jones.

****

Samuel C. Jones, being duly sworn, was examined on behalf of the Commission to the Five Civilized Tribes and testified as follows in the proceedings and testimony in the above case, as the same appears in a true and complete transcript of his statement, as taken by the notary thereof.

Sworn to and subscribed before me this the 5th day of April, 1901.

Commissioner.

a F.D 13,

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
AUG 21 1901

ACTING CHAIRMAN

NOTICE!

In the matter of the application of Allen James for enrollment as a Cherokee Freedman.

Case No. D 13

To Allen James

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21st & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 12th day of May 1901.

T. B. Bell
W. W. Hastings
J. F. Dowerd

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to Allen James on the 14th day of May A. D. 1901.

Fairwood Smith

Subscribed and sworn to before me this 21 day of May 1901. J. C. Starr Notary Public.

(Seal)

E. F. D 13

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 18 1901

ACTING CHAIRMAN.

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In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 12th day of May 1901.

L B Bell
W W Hastings
J S Davenport,

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to Edgar Smith atty for applicant on the 18th day of May A. D. 1901.

Emmet Starr

Subscribed and sworn to before me this 18 day of May 1901.

J. C. Clark Notary Public.

MY COMMISSION EXPIRES
MAY 26th, 1902.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUL 10 1901

ACTING CHAIRMAN.

Commissioners.

Filed to the end of the motion of Mrs. Bertie Lee Brown for a rehearing in the matter of the application of the Choctaw Nation for a rehearing in the matter of the application of the Choctaw Nation for a rehearing in the matter of the application of the Choctaw Nation

To be filed in case of Allen James et al., D-13.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 21, 1901.

Supplemental testimony in the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman.

W. W. Hastings, Cherokee Attorney, and Mellette & Smith, attorneys for applicant; Mr. Edgar Smith, of the firm, present.

Famous Smith, being sworn and examined in this case as a witness on behalf of the Cherokee Nation by Commissioner T. B. Needles, testified as follows:
Examination conducted by W. W. Hastings, Cherokee Attorney:
Q What is your name? A Famous Smith.
Q Smith, what is your age? A 48.
Q What is your postoffice? A Webbers Falls.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q How long have you lived in Canadian District? A I lived there ever since I can recollect.
Q Do you know the applicant, Nancy Sheppard? A Yes sir.
Q How long have you known her? A I think the first time I ever saw her was in '78, or '87, I mean.
Q Where did you see her? A I saw her there at Miss Lynch's the first time I saw her.
Q Where was that? A At Webbers Falls.
Q How long have you lived in Canadian District? A Well, I was raised there; ever since I can recollect.
Q Went out during the war? A Yes sir.
Q When did you come back? A I come back in '65.
Q You are living down there since that time? A Yes sir.
Q You are pretty well acquainted with Canadian District, are you? A Yes sir.
Q When was the first time you say you remember of seeing this woman, was it in '87? A Yes, '87.
Q Have you ever had a talk with this woman at any time as to where she had been prior to that time, before that? A I served notice on her the other day, and she said she was a girl and was left out at Texas, and she didn't know how to come back and she was afraid to get back, and she just stayed there and finally came drifting back this way she said.
Q Did she say where she first come to in the Cherokee Nation? A She didn't exactly say; she come to Ike Birthoff's place in the Cherokee Nation.
Q In what district? A Canadian District.
Q When did you first see her there? A I didn't see her until after she come to the Falls the next spring after that.
Q She had been there a year? A She come in the fall of '86.
Q She never at that time said anything of coming back before? A No sir.
Q Did she say who her former owners were, or who she belonged to? A She said she belonged to Joe Lynch and Joe Lynch gave her to Jim Bell as a nurse girl, and he left her in Texas when he left there.
Q Did she say anything about coming back here in '66 with the Franklin family? A No sir, she said she just drifted back; she said she really didn't know where she belonged.
<u>Applicant's Attorney, Smith:</u> Mr. Smith, you say she had this conversation with you after those notices were served on her? A Yes sir, the day I served the notice on her.
Q Who served the notice? A I did.
Q On whom? A On Nancy Sheppard.
Q You served the notice on her with regard to the taking of this testimony, today, you mean? A No sir, they just sent them to me for some of the witnesses, and I notified them to appear here.
Q Did you serve the notice on Nancy Sheppard in this case? A Yes sir.
Q Was it then that she had the conversation with you? A Yes sir.
Q Where did she have it? A At her house.

Q Who was there? A Her and one of her daughters were there.
Q What was her daughter's name? A Roxie; I forget her name. I served the notice on her; her name was Roxie; I forget the name.
Q Her first name is Roxie, is it? A Yes sir.
Q Where were they in the house or out doors? A They came out to where I was; I drove up in a buggy and I told them I had a notice for them.
Q Did you give Roxie a notice also? A Yes sir.
Q What did Roxie have to say? A She didn't know how she would get there.
Q She heard what you said to Nancy and what Nancy said to you?
A They asked me to read the notices and I read them to them.
Q Roxie was there when Nancy made this statement? A She was there, and I asked her where the rest of them was; I called over the names I had notices to notify to be here. She said there was one of them and the others were down in the field.
Q That was quite a large family, eight, nine or ten, to serve en?
A Yes sir.
Q Did you serve them all? A Yes sir.
Q What interest did you have in it? A They were sent to me down there to serve them.
Q And how did Nancy happen to be talking to you about when she got back here? A She just went on talking after I read the notices to her, and after I read the notice to her she said her daughter was there, Roxie, and I said I had one for her, and I asked her where the boys were; she said they were in the fields.
Q How long did you stay there? A I reckon I stayed there a half hour.
Q And up to that time you never knew anything about when she came to the Cherokee Nation or anything about it? A She come in '87.
Q She came where? A Came to Canadian District. She came to Webbers Falls in '87; she stopped up there on what they called old Gilmore's place close to Checotah.
Q You don't know where she was before she came to Webbers Falls?
A No sir.
Q That was in '87 you say? A Yes sir.
Q She might have been there earlier than that might she not? A I don't know that she was; she might have been.
Q It is a good big district? A No, it is a small district.
Q You didn't know everybody that was in the district? A I used to think I knew nearly everybody. I was Sheriff there quite a while.
Q Were you ever on a scout there? A Yes sir, I scouted ten years, nearly ten years.
Q Were you ever in jail? A Yes sir.
Q How long? A About 25 months.
Q At what place? A At Fort Smith.
Q Were you convicted of anything? A Yes sir.
Q Of what? A I was convicted for murder and sentenced to hang there.
Q And what became of the case? A They nolle pros. it.
Q Finally it was nolle pros.? A Yes sir.
Q Your health was very poor while you were in jail, was it not?
A Yes sir.
Q The doctor thought you had consumption? A I was having hemorrhages of the lung.
By W. W. Hastings: You got a new trial, did you? A Yes sir.
Q And then your case was nolle pros.? A Yes sir.

Emma Hilderbrand, being sworn by Commissioner Needles, and examined by W. W. Hastings, Cherokee Attorney, testified as follows: Witness on part of the Cherokee Nation.
Q What is your name? A Emma Hilderbrand.
Q What is your age? A 47 years old.
Q Where do you live? A Webbers Falls.
Q Are you a citizen of the Cherokee Nation by blood? A Yes sir.
Q Do you know the applicant, Nancy Sheppard? A Just know her when I see her.

Q How long have you lived about Webbers Falls? A Born and raised right where I am living.
Q How long has Nancy Sheppard been down there in that neighborhood or country? A I don't know.
Q When did you first remember of seeing her? A About nine years ago.
Q Did you ever have any talk with her? A Very little.
Q Did you have any talk with her as to where she come from? A I simply asked her where she come from.
Q Please state that? A I asked her where she come from and she said she come from Texas, and she came over to the Choctaw Nation and married and she lived there till she had those five children.
Q Did she state where she went from there? A No sir.
Applicant's Attorney, Smith: Mrs. Hilderbrand, she didn't tell you when she came back from Texas? A No sir, she didn't.
Q She didn't tell you when she came back to the Choctaw Nation? A No sir.
Q You don't know when it was? A No sir, I don't.
Q You don't know whether she was in the Cherokee Nation in 1866 or not? A No sir, I don't.
Q You don't know anything about when her Texas, if she had a Texas trip, was? A No sir.
Q When was it you had a conversation with her? A It was - it has been nine years ago when I had the conversation with her; my mother died and she was there. They were living on my mother's place.
Q Nine years ago? A Yes sir.
Q Who did you first tell about having this conversation with this woman? A Mr. Famous Smith, I believe.
Q When did you tell him? A It has been three weeks ago.
Q How did you happen to tell him about the conversation you had nine years ago? A He simply came to my house and asked me if I knew Aunt Nancy, and I said I knew her when I saw her.
Q What else did he say? A And he asked me where she came from; I told him she come from Texas; I told him she come over in the Choctaw Nation and married and stayed there until she raised her five children, or until she had her five children. He asked me where she come from when she came to the Cherokee Nation and I told him I don't know.
Q You were talking about a conversation you had nine years before? A Yes sir.
By W. W. Hastings: What name did this woman go by when she first came up there? A Sheppard.
Q What name did her children go by? A McClaren or McClenan, something like that.
Q Did any of these children go by the name of James then? A No sir. They were McClaren or McClenan, one or the other.
Q Something that sounded like that? A Yes sir.
Famous Smith recalled and examined by W. W. Hastings:
Q What name did these older children go by? A McClenan or McClaren, or something like that. I never knewed them by the name of James. I always knewed them by the name of McClenan.
By Edgar Smith of Famous Smith: Are you speaking now of the sons of Nancy Sheppard? A Yes sir, said to be her sons.
Q Mr. Smith, they voted in the elections down there, didn't they? A Yes sir, they voted in the last election is the only one this agreement, this treaty roll is the only election I knowed of them voting in.
Q To refresh your recollection, haven't you gotten them to vote for you? A I don't know that I have.
Q Do you know that you haven't? A No, I don't know whether I have or haven't.
Q Did your brother ever run for office down there, or did you have a brother? A Yes, I had a brother.
Q Did he run for some office? A I used to have a brother that was Clerk of the District there.
Q Did these boys vote for him? A I don't think they were old enough then; it has been a good long while ago.

Q Well, you are the man that looked up the witnesses in this case, are you, Mr. Smith? A I knowed of these witnesses there.

John Melton, being sworn and examined by Commissioner T.B. Needles, testified as follows: Witness on behalf of the Cherokee Nation.
Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your postoffice? A Benge.
By W. W. Hastings, Cherokee Attorney: How far do you live from Fort Smith? A Four or five miles.
Q Where did you live in the fall of 1866? A (Not answered)
Q Attorney Smith: Have you ever been convicted of any offense? A No sir.
By W. W. Hastings: Where did you live in the fall of 1866? A I lived in Fort Smith principally.
Q When did you move over to the Cherokee Nation? A Along in December, '66.
Q Where did you live in the early winter, in January and February of '67, and spring of '67? A I lived on the Campbell place.
Q How far is it from what is known as the old Franklin place to the Campbell place in Sequoyah District? A The houses are some three-quarters of a mile apart.
Q Do you know Nancy Sheppard, the applicant, did you ever see her? A I have here of late. I seen her before the war, I reckon, but I wouldn't know her now. I am identifying her from the time I seen her.
Q You were living on the Campbell place which was three-quarters of a mile from the Franklin place in '67? A Yes sir.
Q Did you ever see this Nancy Sheppard down there in the spring of '67? A Not that I know of.
Q You were pretty well acquainted there at that time? A Yes sir.
Q You worked there on the Franklin place that year? A No sir.
Q What did you do that year in '67? A I cultivated land on the Campbell place that year.
Q When was the first time you saw this applicant to know her after the war? A Here during Court at Fort Gibson.
Q This Dawes Commission? A Yes sir, in May.
Q In April, wasn't it? A Yes, April.
Attorney Smith: Which was it April or May? A April.
Q It was January, wasn't it? A I reckon not.
Q What year was it in? A In 1901.
Q Well now, where were you in 1867? A I was down here on the Campbell place; this side of the river from Fort Smith.
Q Who was there with you? A Me and my mother and her children all lived together there.
Q Where did you go to during the war? A I went out to Texas.
Q When did you get back? A In '65. I worked in the nation here in '65 some, passing backward and forward, stayed some time on this side of the river and some time on the other.
Q Are you on the 1880 roll? A Yes sir.
Q Do you say you knew Nancy Sheppard before the war? A I knowed a young woman, a young girl, so said to be Bossen Lynch's daughter, but from the time I seen her until I seen her again I couldn't identify her to be the same person or not.
Q How long has that been, forty years? A I seen her just before the war commenced.
Q Didn't you see her anymore until this year? A No sir.
Q You don't know where she was in 1866, do you? A No sir.
Q Or '67? A No sir, I don't remember of seeing her; if I seen her, I don't recollect.
Q How far is that Campbell place from Fort Smith? A It is hardly a mile just on this side of the river.
Q In 1867, wasn't you in Fort Smith? A I wasn't living there.
Q What were you doing at Fort Smith working there? A No sir, I never worked any in Fort Smith in '67; I worked altogether on this side of the river.

Q That is all you know about it, is it? A Yes sir.

Recross examination of Applicant by Attorney, W. W. Hastings, for the Cherokee Nation:
Q Did you work for a man by the name of Dr. Bradford, in Rusk County, Texas? A I don't remember if I did; I worked for several.
Q Don't you remember Dr. Bradford in Rusk County, Texas? A No sir, it don't seems as if I do. I don't remember of working for anyone but Brown.
Q I want to know if you could think after refreshing your memory where you were married the first time? A I was married down - well, I did say it was in the Cherokee Nation, but since I found out the distance in the rivers, I was married in Poteau bottoms.
Q In the Choctaw Nation? A Yes sir, between those two rivers.
Q Did these oldest children of yours go by the name of McClenan? A They do down home; their father's owner was named McClenan, and they would rather carry that name; they wanted to go by the father's master's name, but his name is James.
Q Was that your first husband? A Yes sir.
Q That was the first man by whom you had a child? A No sir, it wasn't.
Q What was your first husband's name? A They called him - I didn't stay with him but a little while.
Q What name did he go by? A He principally went by - well I don't know his name. McClenan was the next man. I might say wrong
Q You don't remember what his name was? A Yes, he went by Jerry.
Q You don't remember his other name? A No sir.
Q Where did you live with him? A I didn't live with him no time; I only stayed with him about a week.
Q Did you have any child by him? A No sir.
Q The first child you had was by McClenan, or whatever it was?
A Yes sir, my children are all James', but his master was McClenan, and they would rather have that name. Some of them voted McClenan and some of them voted James.
Attorney Smith: Do you know Famous Smith? A I don't hardly know him when I see him.
Q Did he come to your house to serve notices on you in this suit? A Yes sir.
Q You heard his statement that you told him that you had been given by Joe Lynch to Jim Bell? A Yes sir.
Q Did you make such a statement as that to him? A No sir, because I couldn't do that.
Q Just answer the question? A No sir, I didn't.
Q You heard his statement that you had just drifted around in the Choctaw Nation and hadn't come back here until a short time before you went to Webbers Falls, with something substantially like that - did you make such a statement as that to him? A No sir, he never asked me and I never told him. I asked him what was the matter, and he said, I don't know. He handed me the notice. I said I want you to read this to me and he did, and let me know if I have to produce witnesses or not, and he read it, and said yes; I asked where is Mrs. Lynch and he said she went to the Springs, and I said I would have to get somebody else.
Q Did you have any talk at all as to the time you came back to the Cherokee Nation after the war? A Never has in my life.
Q Who was there when Famous Smith came to serve these notices? A Roxie Childers, Jimmie James and Jim Jones were standing at the fence when I received the papers.
Q Were they present when you and Smith weretalking? A Yes sir, standing right at the fence. He handed the papers over the fence to us.
Q Doyou know Mrs. Hilderbrand? A Yes sir.
Q Youheard her statement, did you have any conversationwith her - were you at her house when her mother died? A Yes sir, I was there when her mother died.
Q You heard what she stated, did you tell her that? A No sir.
Q Do you know who else was there when you were at her house?

A There was a whole lot; I couldn't tell you whoall.
Q Howlong ago has it been? A I can't count the years like she can. I can count it so you can count it.
Q It has been a god while has it? A I made two crops on her mamy's place and the second year I stayed there her mother died, and we still made a crop, and then I moved down to the Starr place and I stayed there one year and then I moved to the Blackstone place one year and I been on the place I have now for five years.
Q What was it you say about being married to a man named Jerry before you married James - what became of Jerry? A Dead I reckon.
W. W. Hastings: Well now, I will ask you again, you didn't know before, but who did you come back to the Cherokee Nation with when you first come back? A With the Campbell darkies, Fanny Campbell, but they stopped in the Cherokee Nation somewhere, I don't know what they call it, but over there somewhere, they couldn't get home, and the Campbell darkies come on across and I come along with them.
Q Which one in particular? A Old Uncle Jack Campbell, Old Caroline Charles. I remember them alright, and they had one girl I believe she was named Caroline, and a whole lot more colored folks that lived over here; I was young, I don't remember.
Q Who did you live with the first year? A I always said it was a Smith; I didn'tlive with them particularly; anywhere where I could get anything to eat.
Q How far fromthe Franklin place?A I don't know.
Q How far from Fort Smith? A It was pretty close to Fort Smith.
Q About how many miles? A I don't know.
Q Two or three? A I don't know.
Q As much as five? A I don't know. You all know better than I do.
Q You can forman estimate how far you lived? A It wasn't so very far.
Q Was Smiths a Cherokee family with whom you lived? A I don't know, they claimed it.
Q You don't know? A No sir.
Q How far were you from the Arkansas River? A It wasnt so far. I don't know thedistance.
Q Were you near to it or some distancefromit? A I wont tell it because I have no mind of it.
Q Was it within two or three miles? A I don't know it wasn't far.
A Itmay have been one and a half miles and maybe two miles; I don't know.
Q Is that your best knowledge one and a half miles or two miles?
A It might have been that; I don't know.
Q You think itwas about that far? A Somewhere along there, I reckon, I don't know.
Q On which side of the river did you live? A This side.
Q Was that east, or west, ornorth? A I don't know. I don't know any dates, can't count 100; I can only count one, two and three.
Attorney Smith: Go on now, if you can, and tell me after you got back here at the bottom near Fort Smith, where you lived as well asyou can up to the time youwent to Webbers Falls? A I lived in between them two rivers, stayed in there with some colored people and then I come from there up that river and come over on this side up there in the mountains on that river,and liveda while between Muskogee andCanadian River and there I stayed a good while, I just don't know how long.
Q Where did you go from there? A I come down to Lynch's ranch.
Q Where is it now? A I don't think it was his then; it is called Lynch's ranch now.
Q How long were you there before you went down into Webbers Fallsneighborhood? A I was up at Lynch's ranch about a year.
Q Where did you go from Lynch's ranch? A I went down to Miss Lynch's and he got some land for me and we planted a crop, and the horse died, and he told me to go out in the slash, from town, and

make a crop there.
Q Have you any idea, or can you #### not tell howlong you lived in the Arkansas River bottom before you went up on the Lynch Ranch?
A No sir, I really can't. I can't count unless I count the crops I seened made. I know I stayed there until they made two crops and gathered it.
Q State where? A Down close to the Campbell place.
I always said it was on the Campbell place, I don't know whether it was or not; I said it was the Campbell place.
Q Was that in the CherokeeNation? A Yes sir.
Q How far from Fort Smith? A I couldn't tell.
Q And you stayed there two years? A Yes sir, they made two crops and gathered them.
Q Where were you living nearest to what town before you went to the Lynch place? A Checotah and Whitefield; there was nothing there hardly, no buildings much.
Q Do you remember howfar you were from Whitfield? A No sir.
Q On which side of the river was you on? A On this side.
Q Where have you been all the time now between the time you were living right at the place that you went from to the Lynch place and the time youleft the Campbell place, if it was the Campbell place? A I must have stayed between those two rivers, I reckon, maybe about six or seven years, backwards and forth; you know we didn't have no place.
Q How far is it if you know from Fort Smith toWhitefield? A Lord in heavens knows, I don't know, it is a good ways.
Q How many places did you live on, the place youlived on near Fort Smith, and the place at Whitefield? A I can't remember all the places; wejust rented. At first we didn't rent, I worked around for my living for one and then another. I reckon some Choctaws, Cherokees and colored along that way, but then after I tried to settle down and had a few children then we rented.
Q Can you give us an idea how many places youlivedon between Fort Smith and the place you were living on near Checotah? A No sir; four or five.
By W. W. Hastings: What were the names of those rivers you lived between? A One is Poteau.
Q What is the other? A Arkansas.
Q Is it between those rivers youu lived in between '67 and '68 when you made two crops? A They made two crops; I never made none.
Q That is where you were living? A No sir, I was on this sideclose tothe Campbell place.
Q Who was making the crops over there between the rivers? A Colored folks and some Cherokees.
Q And you stayed over here a couple of years, did you? A Yes sir.
Q You don't know who you were with? A Old man JackCampbell awhile.
Q On the Campbell place? A Yes sir, backward and forward down there. I don't know the other people; they were Cherokees, but I don't know their names.
Q With the exception of those people you can't tell the names of any Cherokees with whom you lived or on whose place you lived until you come to Canadian District in the eighties in the Cherokee Nation? A I can't tell you none but the Campbells is all. I might if I could think over it.
Q It is your business to think over it? A I knowed I stayed - I went over to an old man's name I won't forget, if I think his name was Sharnecko or Yarneko, or something like that; I cooked and washed for him.
Q How long did you stay there? A I don't know how long.
Q When was that? A When I was down there on the river.
Q In '67? A I don't know anything about '67.
Q Was that after you first come back after the war? A Yes sir.
Q Where did Yarneko live? A Down the river up in the mountains.
Q Howfr from the Campbell place? A I don't know.
Q About how many miles? A I don't know; I told you I couldn't count.
Q Was it a half days drive? A They would go in the morning

and comeback before night. I couldn't tell.
Q What kind of a house did Yarneko live in? A Old log house.
Q Did he have a family? A He had a woman.
Q Did he have any children? A No sir.
Q How long did you stay with Yarneko? A I don't know how long; three or four months; maybe longer than that. I just couldn't give no length of time because I don't know.

Supplementary evidence in the case of Nancy Sheppard et al. D-10 to be filed in cases of Frances Walker et al. D -11. Rockey Childers, D-12, Allen James, et al. D - 13, Archie James, D - 15, and Mollie Reed, D -16.

By agreement of Counsel, the supplementary testimony taken this day will be made a part of the record in the cases of the applications of the above parties and a copy of the supplementary testimony will be filed with each of the applications above named.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

G. Rothenberger.

Subscribed and sworn to before me this 2nd day of July, 1901.

J. S. Dodson
~~Commissioner.~~
Notary Public

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File with C. F. D-

13, Allen James.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., Sept.23,1901.

In the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman. C.F.D-10

Appearances:
Mr. Smith, of Mellette & Smith, for applicant,
Mr. W. W. Hastings, for the Cherokee Nation.

TESTIMONY TAKEN ON THE PART OF THE CHEROKEE NATION.

Com'r Needles? Witnesses placed under the rule.

RACHEL GUNTER, being sworn by Commissioner Needles, testified as follows:
BY MR. HASTINGS:
Q What is your name? A Rachel Gunter.
Q What is your age? A I don't know exactly, I think my age is near about 50 years old.
Q You were born before the war? A Yes sir
Q Whoredo you live now? A Webbers Falls.
Q How long have you been living there? A Been living there all my life, I was born in Flint District. And I have been living there ever since the war, I was brought back there.
Q Do you know a colored woman down in Canadian District near Webbers Falls by the name of Nancy Sheppard? A Yes sir.
Q How long have you known her? A Only about 15 years is all the long I have knowed her.
Q How far do you live from her? A About a mile and a half I think, as near as I can guess.
Q How long has she lived that near you? A She has lived right close around there ever since I got acquainted with her.
Q Has she any children? A Yes sir.
Q Give the names of some of them? A Frances Walker, Rockey Childers, Allen McClellan, Archie McClellan, Dennie McClellan.
Q These are her children are they? A She said they was hers, I don't know them to be hers.
Q You know where Nancy Sheppard moved from when she moved to your neighborhood in Canadian District? A Said she come from the Choctaw Nation.
Q You know where she moved from when she moved to the Choctaw Nation? A Said she come from Texas, and that's all I know about it.
Q You know when these children of hers that you have mentioned came into Canadian District, before or after their mother, or about the same time? A They all come there about the same time, but Mrs. Walker, she was married, and she come a year or two after her ma did, but the rest of them she brought them there with her.
Q You think Frances came a little later? A Yes sir, she come a little later.
Q Who was she talking to or with when she was telling about her whereabouts? A She was talking to a preacher named Kinney Wickliffe, and he was at my house, and I was present; what I know I heard it; she was talking to him and I was present.
Q You never saw her in that country until about 15 years ago?
A No sir.
Q You know her before the war? A No sir, 15 years is all I know her.
Q She and Wickliffe come from the same country? A I think so, they seemed to be well acquainted with each other.
Q Talking about old times? A Yes sir, talking about old times, that I didn't know nothing about.
BY MR. SMITH:

Q Where was she when she and Wickliffe were talking?A They were at my house.
Q Anybody else there besides Wickliffe? A ~~Ah xxx~~,There was only us three and some small children I had.
Q Wickliffe is dead is he?A Yes sir, I suppose he is dead. I heard he was dead.
Q Did she ever make any statements to you in the presence of anybody that's alive now? A I never heard her say any more about it after that, to my recollection.
Q How long ago has that been? A She hadn't been there more than two or three years when I heard her tell that preacher that.
Q That has been some 12 or 13 years ago has it? A I don't know now, I can't tell; I hadn't been acquainted with her but a short while.
Q You say she has been living over there about 15 years? A Yes sir
Q And that was a couple or three years after she came there? A Yes sir, I think it was, as near as I can guess at it, I don't know positively,it was that time; I know I heard it, the preacher was there at my house.
Q When was the next time you thought about that conversation afterwards? A It didn't bother my mind nothing about it to know anything about it until I heard that I had to come up here, and they told me what I was coming for, and I said I didn't know nothing about it, that was all I knowed.
Q Who told you? A Famous Smith.
Q He told you? A He was the fellow said he had me subpoenaed up here; I told him I didn't know nothing about it, but that short time I got acquainted with her and heard this talk, that's all I knowed.
Q Famous Smith had you to come up here?A That's what he said.
Q When did he tell you that?A About a month ago. But I thought he was joking; I never expected to come at all.
Q What wasit Famous Smith said to you? A He told me I had to witness against Nancy Sheppard; I said what for, I don't know nothing about her; I said you know her better than I do; he said I don't know nothing about her, he told me I did, I told him I didn't.
Q He said you did know something?A Yes sir.
Q And you said you didn't? A Yes sir, I told him I didn't.
Q And he had his way about it, and you did? A Yes sir, of course if I could have kept out of it I wouldn't have come.

BY MR. HASTINGS:

Q He had~~xxx~~ subpoenaed for you? A Yes sir, he had a subpoena; I told him I couldn't read and he read it to me.

BY MR. SMITH:

Q Did Famous finally tell you about this statement that you have made? A I asked him what did he want me to state about it, and he told me, well I says I don't know nothing about it.
Q You asked Famous Smith what did he want you to state?A Yes sir.
Q What did he say? A He says about how long she been here and where she come from; I says you know her, I didn't know her when she lived up there on another place; Webbers Falls was the first place I got acquainted with her.
Q You told Famous you didn't know where she come from? A Yes sir.
Q Then what did he say? A Told me I had to come up here.
Q Did he tell you whathe heard, say something about where she came from? A Yes sir, he heard that I said so, and I told him I didn't say so, I told him I didn't because I didn't want to come.
Q He said you did? A Yes sir.
Q What did he tell you you said? A He didn't tell me what I said; he said I would have to tell it; told me if I was brought up here to swear the truth I would have it to tell; I told him I wouldn't tell nothing but the truth.
Q Who is this man that came here with you? A That's my brother.
Q Was he there when Famous Smith come to see you? A No sir, he was

at his own home or somewheres else.
BY MR. HASTINGS:
Q Have you told the truth? A Yes sir.
Q Did Famous ask you to tell anything else but the truth? A No sir, he didn't ask me to tell a word but the truth.

MOSE PARLOR, being sworn by Commissioner Needles, testified as follows:
BY MR. HASTINGS:
Q What is your name? A Mose Parlor.
Q What is your age? A 41.
Q What is your post-office? A Webbers Falls.
Q You live in Canadian District? A Yes sir.
Q You know Nancy Sheppard? A Yes sir.
Q How long have you known her? A I have known her about 15 years I guess, somewheres along in there.
Q You know her family? A Yes sir, I know them.
Q Name some of her children? A Well, Rockey and Frances and Allen and Archie and Bennie.
Q What did Allen go by when he come up in there They went by McClennan.
Q What did Rockey go by, she married? A Yes sir, she had been married.
Q Was Frances married? A Yes sir, she is married.
Q Well then younger children, younger than Allen, what do they go by, did Archie go by McClellan? A Some call him McClennan and some James.
Q You know where these people came from when they came to Canadian District? A No sir, I don't know.
Q Did you ever hear them say? A I think I heard them say they come from the Choctaw Nation into the Cherokee Nation.
Q Are you positive about that? A Yes sir, I think she told me that I think I heard her say that.
Q Did you ever her say anything about her other whereabouts, where she came from to the Choctaw Nation? A I think she said she went from down in the lower part of the Cherokee Nation down there close to Fort Smith, down into the Choctaw Nation.
Q Did you ever hear her make any other statement? A No.
MR. SMITH waives examination of this witness.
BY MR. HASTINGS:
I want that filed with D-11, Frances Walker, D-12, Rockey Childers, D-13, Allen James, D-15, Archie James, and D-16, Mollie Reed/

---***---

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this September 26th, 1901.

C. R. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Nancy Sheppard et al. for enrollment as Cherokee Freedmen, consolidating the applications of

Nancy Sheppard et al.----------Cherokee Freedmen D 10,
Frances Walker et al.----------Cherokee Freedmen D 11,
Rocky Childers----------Cherokee Freedmen D 12,
Allen James et al.----------Cherokee Freedmen D 13,
Archie James----------Cherokee Freedmen D 15,
Mollie Reid et al.----------Cherokee Freedmen D 16.

D E C I S I O N

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Nancy Sheppard, for herself and minor child, Benjamin James; by Frances Walker, for herself and minor nephews, David and Willis Walker; by Rocky Childers, for himself; by Allen James, for himself and minor child, John A. James; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Reuben James; by Archie James, for himself; by Frank Reid, for himself and wife, Mollie Reid; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Daniel Reid (the said Frank Reid is differently classified and is not embraced in this decision).

The evidence shows that the said Nancy Sheppard was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee Nation during said war but returned thereto in 1866.

The evidence further shows that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that, in 1885, she returned to the Cherokee Nation and has since continuously resided therein. All the other applicants herein are the children or grandchildren of the said Nancy Sheppard, born since 1866, and have resided continuously in the Indian Territory since birth.

It is, therefore, the opinion of this Commission that Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allen James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby

(Signed) T. B. Needles

(Signed) C. R. Breckinridge

(Signed) W E Stanley

Muskogee, Indian Territory,

this DEC 1 1903

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

DEPARTMENT
RECEIV
JUN 12 1922
TO
3514

WASHINGTON, D. C., June 6, 1922

I, E. B. Meritt, Assistant Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are - - true copies of the originals as the same appear on file - in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed on the day and year first above written.

E B Meritt

Assistant Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAR 11 1902

ACTING CHAIRMAN.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Allen James,
Webbers Falls, I.T.
Cherokee F-D-13
Register.

Cherokee F.D.10-11
12-13-15-16.

Muskogee, Indian Territory, December 3, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1903, in the consolidated case of Nancy Sheppard et al., granting the applications for the enrollment of Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allen, John A., Reuben and Archie James, and Mollie and Daniel Reid as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby

Enc. D-8.

Chairman.

Cherokee Freedmen D-10-11-12-13-15-16.

Muskogee, Indian Territory, January 5, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the consolidated case of Nancy Sheppard, et al., including the Commission's decision dated December 1, 1903, granting the application for the enrollment of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen, John A. and Reuben and Archie James and Mollie and Daniel Reid as Cherokee Freedmen.

You are advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest is inclosed.

Respectfully,

Encl. V-8

Chairman.

Through the
Commissioner of Indian Affairs.

mdg

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D--13

Muskogee, Indian Territory, January 5, 1904.

Allen James,

Webbers Falls, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the record of proceedings had in the matter of your application for the enrollment of yourself and your two minor children, John A. and Reuben James, as Cherokee Freedmen, together with a copy of the Commission's decision dated December 1, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished you by the attorney for the Nation.

The decision with the record of proceedings had in the case has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Encl. V-5
Register.

Refer in reply to
the following:
LAND.
1837/1904.

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, March 3, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith for the consideration of the Department the record of the proceedings had before the Commission to the Five Civilized Tribes in the matter of the application of Nancy Sheppard for the enrollment of herself and minor nephews, David and Willis Walker; of Rocky Childers for the enrollment of herself; of Allen James for the enrollment of himself and his minor child John A. James; of Archie James for the enrollment of himself; and of Frank Reid for the enrollment of himself and his wife Mollie Reid; all as Cherokee Freedman Citizens of the Cherokee Nation.

On December 1, 1903, the Commission rendered a decision in this case, wherein it appears that subsequent to the application of the said Allen James, he filed a birth affidavit showing the birth of Reuben James and that subsequent to the filing of the application of the said Frank Reid, a birth affidavit has been filed, showing the birth of Daniel Reid.

It further appears from said decision that the application of the said Frank Reid for the enrollment of himself is not considered in this decision, as he is differently classified from the other

applicants.

The Commission further finds from the evidence that the said Nancy Sheppard was a slave of a Cherokee Citizen at the beginning of the war and that she was taken out of the Cherokee Nation during said war, but returned thereto in 1866; that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that in 1885 she returned to the Cherokee Nation and has since continuously resided therein; that all the other applicants herein are the children of grandchildren of the said Nancy Sheppard, born since 1866 and have resided continuously in the Indian territory since birth.

By reason of said facts and findings, the Commission is of the opinion that the said Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allan James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee Freedmen citizens of the Cherokee Nation, in accordance with the provisions of Sec. 21, of the Act of Congress approved June 28, 1898, (30 Stats., 495).

To said decision of the Commission the Cherokee Nation files a protest, wherein it is set out that the testimony of the principal applicant, Nancy Sheppard, is very unsatisfactory and is only supported by the testimony of one witness, Fannie F. Kiddy, whose reputation is not of the best and whose record before the Commission is not at all satisfactory.

The Nation then invites attention to the testimony of other witnesses tending to show that the principal applicant did not return

to the Nation in 1866 as claimed by her.

I have examined the evidence in this case and also consider that the principal applicant's testimony is very unsatisfactory and in that regard I agree with the protest of the Cherokee Nation, but I also consider that the testimony submitted by the Nation is about as unsatisfactory as that of the applicants; and taking this view of the testimony of both sides, I do not on the whole feel warranted in disturbing the decision of the Commissionx, as it saw the witnesses, heard them testify and is better able to judge of the weight to be given their testimony than any one else. I therefore concur in said decision and recommend that it be affirmed by the Department.

Very respectfully,

WCB-H

Acting Commissioner.

D C 11276-1904. COPY. W.C.F.

I.T.D. 1842-1904. DEPARTMENT OF THE INTERIOR, FHE

LR.S. WASHINGTON.

April 6, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 5, 1904, you transmitted the record in the matter of the application for enrollment as Cherokee freedmen of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen and John A. James, Reuben James, Archie James, Mollie and Daniel Reid, including your decision of December 1, 1903, in which you held that the applicants should be enrolled.

The original application included the name of Frank Reid. You state in your decision that he is differently classified. He is therefore not embraced in this decision.

The attorney for the Cherokee Nation protests against your decision.

Reporting March 3, 1904, the Acting Commissioner of Indian Affairs states that while the evidence introduced on both sides is unsatisfactory, yet it is his opinion that your decision should be approved, and he so recommends.

The Department concurs in said recommendation, and your decision is accordingly affirmed.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

(Signed) Thos Ryan,
Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-13.

Muskogee, Indian Territory, April 16, 1904.

Allen James,

Webbers Falls, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 1, 1903, granting, among others, your application for the enrollment of yourself and your two minor children, John A. and Reuben James, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
B-10, et al.

Muskogee, Indian Territory, April 16, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 1, 1903, in the consolidated case of Nancy Sheppard, et al., granting the applications for the enrollment of Nancy Sheppard, Benjamin, Archie, Allen, John A. and Reuben James, Mollie Reid, Daniel Reid, Rocky Childers, Frances Walker, David and Willis Walker, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, $300.

WEBBERS FALLS
1904
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Unclaimed.

Allen James,

Webbers Falls, Indian Territory.

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See Cher Fr 1273, 4, 5, 6, 8

Cher Fr 1277

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
APR 5 1901

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., APRIL 5th, 1901.

In the matter of the application of Archy James for the enrollment of himself as a Cherokee Freedman; said James being sworn and examined by Commissioner T. M. Needles, testified as follows:

Q What is your name? A Archy James.
Q How old are you? A 22.
Q What is your post office address? A Webbers Falls.
Q What district do you live in? A Canadian District.
Q Do you apply for enrollment as a Cherokee Freedman? A Yes, sir.
Q Did you ever apply to be enrolled as a Freedman of any other Nation? A No, sir.
Q Who do you desire to enroll besides yourself? A No, sir.
Q What is your mother's name? A Nancy Sheppard.
Q Is she living? A Yes, sir.
Q What is your father's name? A James.
Q Did he have any other name besides James? A Ben James.
Q Is he alive? A No, sir.
Q Have you always lived in the Cherokee Nation? A Yes, sir.
Q Where were you born? A In the Nation.
Q Is your name on the roll of 1880? A Yes, sir; I guess so.

The 1880 Authenticated Roll of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census Roll of citizens of the Cherokee Nation examined and the name of applicant not found thereon.

Kerns & Clifton Pay Roll, page 108, #2699, Arch James, Coowee coowee District.

COM'R NEEDLES:--The name of Archy James is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kerns & Clifton Pay roll as per page and number as mentioned in the testimony. He avers that he was born and raised in the Cherokee Nation. He avers that he is a son of Nancy Sheppard. By reason of the fact that the citizenship of Nancy Sheppard is not satisfactory, further judgment as to the citizenship of Archy James will be suspended and his name will be placed upon a doubtful card and reference is made to the testimony in D. Card #10, the testimony of his mother, Nancy Sheppard.

---oooOOOooo---

J. O. Posson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Posson

Subscribed and sworn to before me this 5th day of April, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 5 1901

ACTING CHAIRMAN

Cher. Fr. # 1277

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date APR 5- 1901

Post Office Weber

District Canadian

1. Name Archy James Age 22

Owner's name Citizenship

Year K.C. Page 108 No. 2699 District Coo

Parents:

Father Ben James Citizenship Colored

Mother Nancy Johnson Citizenship "

2. Name of wife Age

Owners name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by No (1) Stenographer Rosson J. O

No (1) on K.C. Roll Archy James

#1015

F. D 15 6.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
21 1901

ACTING CHAIRMAN.

NOTICE!

In the matter of the application of Archy James for enrollment as a Cherokee Freedman.

Case No. D 15

To Archy James

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21st & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 12 day of May 1901.

L. B Bell,
W. W. Hastings,
J. S. Davenport,
Per---
Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to Archy James on the 14 day of May A. D. 1901.

Fannie Quiton

Subscribed and sworn to before me this 21 day of May 1901.

J C Starr Notary Public.

6. 1 2 15 —

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 18 1901

ACTING CHAIRMAN.

NOTICE!

In the matter of the application of Archy James for enrollment as a Cherokee Freedman.

Case No. D 15

To Archy James

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory [redacted] on the following dates, to-wit: May 21st and 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 12th day of May 1901.

L. B. Bell
W. W. Hastings
J. S. Davenport

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to Edgar Smith atty for Freed[illegible] on the 18 day of May A. D. 1901.

Emmet Starr

Subscribed and sworn to before me this 18 day of May 1901.

J. E. Starr Notary Public.

MY COMMISSION EXPIRES
[illegible] 1902.

D 5 D15

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL 30 1901

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, July 30, 1901.

Before Tobias Pickens, Notary Public in and for said Territory, duly commissioned and qualified, personally appeared Jno. Blackbird, who being duly sworn on his oath, deposes and says:

"I am a citizen of the Muscogee Nation, and am the husband of Ellen Blackbird, who was a citizen of said Nation, and was enrolled as such on the Dawes Commission's roll of Muscogee citizens, and received an allotment of land in said Nation, and I am the father of Jno. Blackbird, who was enrolled as such on said roll, and received an allotment of land in said Nation, and I am the father of Ellen Blackbird, who was enrolled as such on said roll

To be filed in case of Archie James, D-15.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 31, 1901.

Supplemental testimony in the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman.

W. W. Hastings, Cherokee Attorney, and Mellette & Smith, attorneys for applicant; Mr. Edgar Smith, of the firm, present.

Famous Smith, being sworn and examined in this case as a witness on behalf of the Cherokee Nation by Commissioner T. B. Needles, testified as follows:
Examination conducted by W. W. Hastings, Cherokee Attorney:
Q What is your name? A Famous Smith.
Q Smith, what is your age? A 48.
Q What is your postoffice? A Webbers Falls.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q How long have you lived in Canadian District? A I lived there ever since I can recollect.
Q Do you know the applicant, Nancy Sheppard? A Yes sir.
Q How long have you known her? A I think the first time I ever saw her was in '78, or '87, I mean.
Q Where did you see her? A I saw her there at Miss Lynch's the first time I saw her.
Q Where was that? A At Webbers Falls.
Q How long have you lived in Canadian District? A Well, I was raised there; ever since I can recollect.
Q Went out during the war? A Yes sir.
Q When did you come back? A I come back in '65.
Q You are living down there since that time? A Yes sir.
Q You are pretty well acquainted with Canadian District, are you? A Yes sir.
Q When was the first time you say you remember of seeing this woman, was it in '87? A Yes, '87.
Q Have you ever had a talk with this woman at any time as to where she had been prior to that time, before that? A I served notice on her the other day, and she said she was a girl and was left out at Texas, and she didn't know how to come back and she was afraid to get back, and she just stayed there and finally came drifting back this way she said.
Q Did she say where she first come to in the Cherokee Nation? A She didn't exactly say; she come to Ike Birthoff's place in the Cherokee Nation.
Q In what district? A Canadian District.
Q When did you first see her there? A I didn't see her until after she come to the Falls the next spring after that.
Q She had been there a year? A She come in the fall of '86.
Q She never at that time said anything of coming back before? A No sir.
Q Did she say who her former owner's were, or who she belonged to? A She said she belonged to Joe Lynch and Joe Lynch gave her to Jim Bell as a nurse girl, and he left her in Texas when he left there.
Q Did she say anything about coming back here in '66 with the Franklin Family? A No sir, she said she just drifted back; she said she really didn't know where she belonged.
Applicant's Attorney, Smith: Mr. Smith, you say she had this conversation with you after these notices were served on her? A Yes sir, the day I served the notice on her.
Q Who served the notice? A I did.
Q On whom? A On Nancy Sheppard.
Q You served the notice on her with regard to the taking of this testimony, today, you mean? A No sir, they just sent them to me for some of the witnesses, and I notified them to appear here.
Q Did you serve the notice on Nancy Sheppard in this case? A Yes sir.
Q Is it then that she had the conversation with you? A Yes sir.
Q Where did she have it? A At her house.

Q Who was there? A Her and one of her daughters were there.
Q What was her daughter's name? A Roxie; I forget her name. I served the notice on her; her name was Roxie; I forget the name.
Q Her first name is Roxie, is it? A Yes sir.
Q Where were they in the house or out doors? A They came out to where I was; I drove up in a buggy and I told them I had a notice for them.
Q Did you give Roxie a notice also? A Yes sir.
Q What did Roxie have to say? A She didn't know how she would get there.
Q She heard what you said to Nancy and what Nancy said to you? A They asked me to read the notices and I read them to them.
Q Roxie was there when Nancy made this statement? A She was there, and I asked her where the rest of them was; I called over the namesI had notices to notify to be here. She said there was one of them and the others were down in the field.
Q That was quite a large family, eight, nine or ten, to serve on? A Yes sir.
Q Did you serve them all?A Yes sir.
Q What interest did you have in it? A They were sent to me down there to serve them.
Q And how did Nancy happen to be talking to you about when she got back here? A She just went on talking after I read the notices to her, and after I read the notice to her she said her daughter was there, Roxie, and I said I had one for her, and I asked her where the boys were; she said they were in the fields.
Q How long did you stay there? A Ineckon I stayed there a half hour.
Q And up to that time you never knew anything about when she came to the Cherokee Nation or anything about it? A She come in '87.
Q She came where? A Came to Canadian District. She came to Webbers Falls in '87; she stopped up there on what they called old Gilmore's place close to Checotah.
Q You don't know where she was before she came to Webbers Falls? A No sir.
Q That was in '87 you say? A Yes sir.
Q She might have been there earlier than that might she not? A I don't know that she was; she might have been.
Q It is a good big district? A No, it is a small district.
Q You didn't know everybody that was in the district? A I used to think I knew nearly everybody. I was Sheriff there quite a while.
Q Were you ever on a scout there? A Yes sir, I scouted ten years, nearly ten years.
Q Were you evermin jail? A Yes sir.
Q How long? A About 25 months.
Q At what place? A At Fort Smith.
Q Were you convicted of anything? A Yes sir.
Q Of what? A I was convicted for murder and sentenced to hang there.
Q And what became of the case?A They nolle pros. it.
Q Finally it was nolle pros.? A Yes sir.
Q Your health was very poor while you were in jail, was it not? A Yes sir.
Q The doctor thought you had consumption? A I was having hemorrhages of the lung.
By W. W. Hastings: You got a new trial, did you?A Yes sir.
Q And then your case was nolle pros.? A Yes sir.

Emma Hilderbrand,being sworn by Commissioner Needles, and examined by W. W. Hastings, Cherokee Attorney, testified as follows: Witness on part of the Cherokee Nation.
Q What is your name? A Emma Hilderbrand.
Q What is your age? A 47 years old.
Q Where do you live? A Webbers Falls.
Q Are you a citizen of the Cherokee Nation by blood?A Yes sir.
Q Do you know the applicant, Nancy Shepperd? A Just know her when I see her.

Q How long have you lived about Webbers Falls? A Born and raised right where I am living.
Q How long has Nancy Sheppard been down there in that neighborhood or country? A I don't know.
Q When did you first remember of seeing her? A About nine years ago.
Q Did you ever have any talk with her? A Very little.
Q Did you have any talk with her as to where she come from? A I simply asked her where she come from.
Q Please state that? A I asked her where she come from and she said she come from Texas, and she came over to the Choctaw Nation and married andshe lived there till she had those five children.
Q Did she state where she went from there? A No sir.
Applicant's Attorney, Smith: Mrs. Hilderbrand, she didn't tell you when she came back from Texas? A No sir, she didn't.
Q She didn't tell you when she came back to the Choctaw Nation? A No sir.
Q You don't know when it was? A No sir, I don't.
Q You don't know whether she was in the Cherokee Nation in 1866 or not? A No sir,I don't.
Q You don't know anything about when her Texas, if she had a Texas trip, was? A No sir.
Q When was it you had a conversation with her? A It was - it has been nine years ago when I had the conversation with her; my mother died and she was there. They were living on my mother's place.
Q Nine years ago? A Yes sir.
Q Who did you first tell about having this conversation with this woman? A Mr. Famous Smith, I believe.
Q When did you tell him? A It has been three weeks ago.
Q How did you happen to tell him about the conversation you had nine years ago? A He simply came to my house and asked me if I knew Aunt Nancy, and I said I knew her when I saw her.
Q What else did he say? A And he asked me where she came from;I told him she come from Texas; I told him she come over in the Choctaw Nation and married and stayed there until she raised her five children, or until she had her five children. He asked me where she come from when she came to the Cherokee Nation and I told him I don't know.
Q You were talking about a conversation you had nine years before? A Yes sir.
By W. W. Hastings: What name did this woman go by when she first came up there? A Sheppard.
Q What name did her children go by? A McClaren or McClenan, something like that.
Q Did any of these children go by the name of James then? A No sir. They were McClaren or McClenan, one or the other.
Q Something that soundedlike that? A Yes sir.
Famous Smith recalled and examined by W. W. Hastings:
Q What name did these older children go by? A McClenan or McClaren, or something like that. I never knewed them by the name of James. I always knewed them by the name of McClenan.
By Edgar Smith of Famous Smith: Are you speaking now of the sons of Nancy Sheppard? A Yes sir, said to be her sons.
Q Mr. Smith, they voted in the elections down there, didn't they? A Yes sir, they voted in the last election is the only one this agreement, this treaty roll is the only election I knowed of them voting in.
Q To refresh your recollection, haven't you gotten them to vote for you? A I don't know that I have.
Q Do you know that you haven't.? A No, I don't know whether I have or haven't.
Q Did your brother ever run for office down there, or did you have a brother? A Yes, I had a brother.
Q Did he run for some office? A I used to have a brother that was Clerk of the District there.
Q Did these boys vote for him? A I don't think they were old enough then; it has been a good long while ago.

Q Well, you are the man that looked up the witnesses in this case, are you, Mr. Smith? A I knowed of these witnesses there.

John Melton, being sworn and examined by Commissioner T. B. Needles, testified as follows: Witness on behalf of the Cherokee Nation.

Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your postoffice? A Benge.
By W. W. Hastings, Cherokee Attorney: How far do you live from Fort Smith? A Four or five miles.
Q Where did you live in the fall of 1866? (Not answered)
Attorney Smith: Have you ever been convicted of any offense? A No sir.
By W. W. Hastings: Where did you live in the fall of 1866? A I lived in Fort Smith principally.
Q When did you move over to the Cherokee Nation? A Along in December, '66.
Q Where did you live in the early winter, in January and February of '67, and spring of '67? A I lived on the Campbell place.
Q How far is it from what is known as the old Franklin place to the Campbell place in Sequoyah District? A The houses are some three-quarters of a mile apart.
Q Do you know Nancy Sheppard, the applicant, did you ever see her? A I have here of late. I seen her before the war, I reckon, but I wouldn't know her now. I am identifying her from the time I seen her.
Q You were living on the Campbell place which was three-quarters of a mile from the Franklin place in '67? A Yes sir.
Q Did you ever see this Nancy Sheppard down there in the spring of '67? A Not that I know of.
Q You were pretty well acquainted there at that time? A Yes sir.
Q You worked there on the Franklin place that year? A No sir.
Q What did you do that year in '67? A I cultivated land on the Campbell place that year.
Q When was the first time you saw this applicant to know her after the war? A Here during Court at Fort Gibson.
Q This Dawes Commission? A Yes sir, in May.
Q In April, wasn't it? A Yes, April.
Attorney Smith: Which was it April or May? A April.
Q It was January, wasn't it? A I reckon not.
Q What year was it in? A In 1901.
Q Well now, where were you in 1867? A I was down here on the Campbell place; this side of the river from Fort Smith.
Q Who was there with you? A Me and my mother and her children all lived together there.
Q Where did you go to during the war? A I went out to Texas.
Q When did you get back? A In '65. I worked in the nation here in '65 some, passing backward and forward, stayed some time on this side of the river and some time on the other.
Q Are you on the 1880 roll? A Yes sir.
Q Do you say you knew Nancy Sheppard before the war? A I knowed a young woman, a young girl, so said to be Bossen Lynch's daughter, but from the time I seen her until I seen her again I couldn't identify her to be the same person or not.
Q How long has that been, forty years? A I seen her just before the war commenced.
Q Didn't you see her anymore until this year? A No sir.
Q You don't know where she was in 1866, do you? A No sir.
Q Or '67? A No sir, I don't remember of seeing her; if I seen her, I don't recollect.
Q How far is that Campbell place from Fort Smith? A It is hardly a mile just on this side of the river.
Q In 1867, wasn't you in Fort Smith? A I wasn't living there.
Q What were you doing at Fort Smith working there? A No sir, I never worked any in Fort Smith in '67; I worked altogether on this side of the river.

Q That is all you know about it, is it? A Yes sir.

Recross examination of Applicant by Attorney, W. W. Hastings, for the Cherokee Nation.
Q Did you work for a man by the name of Dr. Bradford, in Rusk County, Texas? A I don't remember if I did; I worked for several.
Q Don't you remember Dr. Bradford in Rusk County, Texas? A No sir, it don't seems as if I do. I don't remember of working for anyone but Brown.
Q I want to know if you could think after refreshing your memory where you were married the first time? A I was married down - well, I did say it was in the Cherokee Nation, but since I found out the distance in the rivers, I was married in Poteau bottoms.
Q In the Choctaw Nation? A Yes sir, between those two rivers.
Q Did these oldest children of yours go by the name of McClenan? A They do down home; their father's owner was named McClenan, and they would rather carry that name; they wanted to go by the father's master's name, but his name is James.
Q Was that your first husband? A Yes sir.
Q That was the first man by whom you had a child? A No sir, it wasn't.
Q What was your first husband's name? A They called him - I didn't stay with him but a little while.
Q What name did he go by? A He principally went by - well I don't know his name. McClennan was the next man. I might say wrong.
Q You don't remember what his name was? A Yes, he went by Jerry.
Q You don't remember his other name? A No sir.
Q Where did you live with him? A I didn't live with him no time; I only stayed with him about a week.
Q Did you have any child by him? A No sir.
Q The first child you had was by McClenan, or whatever it was? A Yes sir, my children are all James', but his master was McClenan, and they would rather have that name. Some of them voted James. Some of them voted McClenan
Attorney Smith: Do you know Famous Smith? A I don't hardly know him when I see him.
Q Did he come to your house to serve notices on you in this suit? A Yes sir.
Q You heard his statement that you told him that you had been given by Joe Lynch to Jim Bell? A Yes sir.
Q Did you make such a statement as that to him? A No sir, because I couldn't do that.
Q Just answer the question? A No sir, I didn't.
Q You heard his statement that you had just drifted around in the Choctaw Nation and hadn't come back here until a short time before you went to Webbers Falls, with something substantially like that - did you make such a statement as that to him? A No sir, he never asked me and I never told him. I asked him what was the matter, and he said, I don't know. He handed me the notice. I said I want you to read this to me and he did, and let me know if I have to produce witnesses or not, and he read it, and said yes; I asked where is Mrs. Lynch and he said she went to the Springs, and I said I would have to get somebody else.
Q Did you have any talk at all as to the time you came back to the Cherokee Nation after the war? A Never has in my life.
Q Who was there when Famous Smith came to serve these notices? A Roxie Childers, Jimmie James and Jim Jones were standing at the fence when I received the papers.
Q Were they present when you and Smith were talking? A Yes sir, standing right at the fence. He handed the papers over the fence to us.
Q Do you know Mrs. Hilderbrand? A Yes sir.
Q You heard her statement, did you have any conversation with her - were you at her house when her mother died? A Yes sir, I was there when her mother died.
Q You heard what she stated, did you tell her that? A No sir.
Q Do youknow who else was there when you were at her house?

A There was a whole lot; I couldn't tell you who all.
Q How long ago has it been? A I can't count the years like she can. I can count it so you can count it.
Q It has been a good while has it? A I made two crops on her mamy's place and the second year I stayed there her mother died, and we still made a crop, and then I moved down to the Starr place and I stayed there one year and then I moved to the Blackstone place one year and I been on the place I have now for five years.
Q What was it you say about being married to a man named Jerry before you married James - what became of Jerry? A Dead I reckon.
W. W. Hastings: Well now, I will ask you again, you didn't know before, but who did you come back to the Cherokee Nation with when you first come back? A With the Campbell darkies, Fanny Campbell, but they stopped in the Choctaw Nation somewhere, I don't know what they call it, but over there somewhere, they couldn't get home, and the Campbell darkies come on across and I come along with them.
Q Which one in particular? A Old Uncle Jack Campbell, Old Caroline Charles. I remember them alright, and they had one girl I believe she was named Caroline, and a whole lot more colored folks that lived over here; I was young, I don't remember.
Q Who did you live with the first year? A I always said it was a Smith; I didn't live with them particularly; anywhere where I could get anything to eat.
Q How far from the Franklin place? A I don't know.
Q How far from Fort Smith? A It was pretty close to Fort Smith.
Q About how many miles? A I don't know.
Q Two or three? A I don't know.
Q As much as five? A I don't know. You all know better than I do.
Q You can form an estimate how far you lived? A It wasn't so very far.
Q Was Smiths a Cherokee family with whom you lived? A I don't know, they claimed it.
Q You don't know? A No sir.
Q How far were you from the Arkansas River? A It wasn't so far. I don't know the distance.
Q Were you near to it or somedistance from it? A I wont tell it because I have no mind of it.
Q Was it within two or three miles? A I don't know it wasn't far.
A It may have been one and a half miles and maybe two miles; I don't know.
Q Is that your best knowledge one and a half miles or two miles? A It might have been that; I don't know.
Q You think it was about that far? A Somewhere along there, I reckon, I don't know.
Q On which side of the river did you live? A This side.
Q Was that east, or west, or north? A I don't know. I don't know any dates, can't count 100; I can only count one, two and three.
Attorney Smith: Go on now, if you can, and tell me after you got back here at the bottom near Fort Smith, where you lived as well as you can up to the time you went to Webbers Falls? A I lived in between them two rivers, stayed in there with some colored people and then I come from there up that river and come over on this side up there in the mountains on that river, and lived a while between Muskogee and Canadian River and there I stayed a good while, I just don't know how long.
Q Where did you go from there? A I come down to Lynch's ranch.
Q Where is it now? A I don't think it was his then; it is called Lynch's ranch now.
Q How long were you there before you went down into Webbers Falls neighborhood? A I was up at Lynch's ranch about a year.
Q Where did you go from Lynch's ranch? A I went down to Miss Lynch's and he got some land for me and we planted a crop, and the horse died, and he told me to go out in the slash, from town, and

make a crop there.
Q Have you any idea, or can you not tell how long you lived in the Arkansas River bottom before you went up on the Lynch Ranch?
A No sir, I really can't. I can't count unless I count the crops I seened made. I know I stayed there until they made two crops and gathered it.
Q State where? A Down close to the Campbell place.
I always said it was on the Campbell place, I don't know whether it was or not; I said it was the Campbell place.
Q Was that in the Cherokee Nation? A Yes sir.
Q How far from Fort Smith? A I couldn't tell.
Q And you stayed there two years? A Yes sir, they made two crops and gathered them.
Q Where were you living nearest to what town before you went to the Lynch place? A Checotah and Whitefield; there was nothing there hardly, no buildings much.
Q Do you remember how far you were from Whitefield? A No sir.
Q On which side of the river was you on? A On this side.
Q Where have you been all the time now between the time you were living right at the place that you went from to the Lynch place and the time you left the Campbell place, if it was the Campbell place? A I must have stayed between those two rivers, I reckon, maybe about six or seven years, backwards and forth; you know we didn't have no place.
Q How far is it if you know from Fort Smith to Whitefield? A Lord in heavens knows, I don't know, it is a good ways.
Q How many places did you live on, the place you lived on near Fort Smith, and the place at Whitefield? A I can't remember all the places; we just rented. At first we didn't rent, I worked around for my living for one and then another. I reckon some Choctaws, Cherokees and colored along that way, but then after I tried to settle down and had a few children then we rented.
Q Can you give us an idea how many places you lived on between Fort Smith and the place you were living on near Checotah? A No sir; four or five.
By W. W. Hastings: What were the names of those rivers you lived between? A One is Poteau.
Q What is the other? A Arkansas.
Q It is between those rivers you lived in between '67 and '68 when you made two crops? A They made two crops; I never made none.
Q That is where you were living? A No sir, I was on this side close to the Campbell place.
Q Who was making the crops over there between the rivers? A Colored folks and some Cherokees.
Q And you stayed over here a couple of years, did you? A Yes sir.
Q You don't know who you were with? A Old man Jack Campbell a while.
Q On the Campbell place? A Yes sir, backward and forward down there. I don't know the other people; they were Cherokees, but I don't know their names.
Q With the exception of those people you can't tell the names of any Cherokees with whom you lived or on whose place you lived until you come to Canadian District in the eighties in the Cherokee Nation? A I can't tell you none but the Campbells is all. I might if I could think over it.
Q It is your business to think over it? A I knowed I stayed - I went over to an old man's name I won't forget, if I think his name was Sharnecko or Yarneko, or something like that; I cooked and washed for him.
Q How long did you stay there? A I don't know how long.
Q When was that? A When I was down there on the river.
Q In '67? A I don't know anything about '67.
Q Was that after you first come back after the war? A Yes sir.
Q Where did Yarneko live? A Down the river up in the mountains.
Q How far from the Campbell place? A I don't know.
Q About how many miles? A I don't know; I told you I couldn't count.
Q Was it a half days drive? A They would go in the morning

and come back before night. I couldn't tell.
Q What kind of a house did Yarneko live in? A Old log house.
Q Did he have a family? A He had a woman.
Q Did he have any children? A No sir.
Q How long did you stay with Yarneko? A I don'thow how long; three or four months; maybe longer than that. I just couldn't give no length of time because I don't know.

Supplementary evidence in the case of Nancy Sheppard et al. D-10 to be filed in cases of Frances Walker et al. D - 11. Rockey Childers, D-12, Allen James, et al. D-13, Archie James, D -15, and Mollie Reed, D -16.

By agreement of Counsel, the supplementary testimony taken this day will be made a part of the record in the cases of the applications of the above parties and a copy of the supplementary testimony will be filed with each of the applications above named.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

C. G. Rothenberger.

Subscribed and sworn to before me this 28th day of July, 1901.

J. J. Dodson
~~Commissioner~~. Notary Public

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File with C. F. D-15, Archie James.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., Sept.23,1901.

In the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman. C.F.D-10

Appearances:
Mr. Smith, of Mellette & Smith, for applicant,
Mr. W. W. Hastings, for the Cherokee Nation.

TESTIMONY TAKEN ON THE PART OF THE CHEROKEE NATION.

Com'r Needles? Witnesses placed under the rule.

RACHEL GUNTER, being sworn by Commissioner Needles, testified as follows:
BY MR. HASTINGS:
Q What is your name? A Rachel Gunter.
Q What is your age? A I don't know exactly, I think my age is near about 50 years old.
Q You were born before the war? A Yes sir
Q Whereda you live now? A Webbers Falls.
Q How long have you been living there? A Been living there all my life, I was born in Flint District. And I have been living there ever since the war, I was brought back there.
Q Do you know a colored woman down in Canadian District near Webbers Falls by the name of Nancy Sheppard? A Yes sir.
Q How long have you known her? A Only about 15 years is all the long I have knowed her.
Q How far do you live from her? A About a mile and a half I think, as near as I can guess.
Q How long has she lived that near you? A She has lived right close around there ever since I got acquainted with her.
Q Has she any children? A Yes sir.
Q Give the names of some of them? A Frances Walker, Rockey Childers, Allen McClellan, Archie McClellan, Jennie McClellan.
Q Those are her children are they? A She said they was hers, I don't know them to be hers.
Q You know where Nancy Shoppard moved from when she moved to your neighborhood in Canadian District? A Said she come from the Choctaw Nation.
Q You know where she moved from when she moved to the Choctaw Nation? A Said she come from Texas, and that's all I know about it.
Q You know when these children of hers that you have mentioned came into Canadian District, before or after their mother, or about the same time? A They all come there about the same time, but Mrs. Walker, she was married, and she come a year or two after her ma did, but the rest of them she brought them there with her.
Q You think Frances came a little later? A Yes sir, she come a little later.
Q Who was she talking to or with when she was telling about her whereabouts? A She was talking to a preacher named Kinney Wickliffe, and he was at my house, and I was present; what I know I heard it; she was talking to him and I was present.
Q You never saw her in that country until about 15 years ago?
A No sir.
Q You know her before the war? A No sir, 15 years is all I know her.
Q She and Wickliffe come from the same country? A I think so, they seemed to be well acquainted with each other.
Q Talking about old times? A Yes sir, talking about old times, that I didn't know nothing about.
BY MR. SMITH:

Q Where was she when she and Wickliffe were talking? A They were at my house.
Q Anybody else there besides Wickliffe? A ~~Ok xxx~~, There was only us three and some small children I had.
Q Wickliffe is dead is he? A Yes sir, I suppose he is dead. I heard he was dead.
Q Did she ever make any statements to you in the presence of anybody that's alive now? A I never heard her say any more about it after that. to my recollection.
Q How long ago has that been? A She hadn't been threr more than two or three years when I heard her tell that preacher that.
Q That has been some 12 or 13 years ago has it? A I don't know now, I can't tell; I hadn't been acquainted with her but a short while.
Q You say she has been living over there about 15 years? A Yes sir
Q And that was a couple or three years after she came there? A Yes sir, I think it was, as near as I can guess at it, I don't know positively, it was that time; I know I heard it, the preacher was there at my house.
Q When was the next time you thought about that conversation afterwards? A It didn't bother my mind nothing about it to know anything about it until I heard that I had to come up here, and they told me what I was coming for, and I said I didn't know nothing about it, that was all I knowed.
Q Who told you? A Famous Smith.
Q He told you? A He was the fellow said he had me subpoenaed up here; I told him I didn't know nothing about it, but that short time I got acquainted with her and heard this talk, that's all I knowed.
Q Famous Smith had you to come up here? A That's what he said.
Q When did he tell you that? A About a month ago. But I thought he was joking; I never expected to come at all.
Q What wasit Famous Smith said to you? A He told me I had to witness against Nancy Sheppard; I said what for, I don't know nothing about her; I said you know her better than I do; he said I don't know nothing about her, he told me I did, I told him I didn't.
Q He said you did know something? A Yes sir.
Q And you said you didn't? A Yes sir, I told him I didn't.
Q And he had his way about it, and you did? A Yes sir, of course if I could have kept out of it I wouldn't have come.

BY MR. HASTINGS:

Q He had ~~xxx~~ subpoenaed for you? A Yes sir, he had a subpoena; I told him I couldn't read and he read it to me.

BY MR. SMITH:

Q Did Famous finally tell you about this statement that you have made? A I asked him what did he want me to state about it, and he told me, well I says I don't know nothing about it.
Q You asked Famous Smith what did he want you to state? A Yes sir.
Q What did he say? A He says about how long she been here and where she come from; I says you know her, I didn't know her when she lived up there on another place; Webbers Falls was the first place I got acquainted with her.
Q You told Famous you didn't know where she come from? A Yes sir.
Q Then what did he say? A Told me I had to come up here.
Q Did he tell you whathe heard, say something about where she came from? A Yes sir, he heard that I said so, and I told him I didn't say so, I told him I didn't because I didn't want to come.
Q He said you did? A Yes sir.
Q What did he tell you you said? A He didn't tell me what Isaid; he said I would have to tell it; told me if I was brought up here to swear the truth I would have it to tell; I told him I wouldn't tell nothing but the truth.
Q Who is this man that came here with you? A That's my brother.
Q Was he there when Famous Smith come to see you? A No sir, he was

at his own home or somewheres else.
BY MR. HASTINGS:
Q Have you told the truth? A Yes sir.
Q Did Famous ask you to tell anything else but the truth? A No sir, he didn't ask me to tell a word but the truth.

MOSE PARLOR, being sworn by Commissioner Needles, testified as follows:
BY MR. HASTINGS:
Q What is your name? A Mose Parlor.
Q What is your age? A 41.
Q What is your post-office? A Webbers Falls.
Q You live in Canadian District? A Yes sir.
Q You know Nancy Sheppard? A Yes sir.
Q How long have you known her? A I have known her about 15 years I guess, somewheres along in there.
Q You know her family? A Yes sir, I know them.
Q Name some of her children? A Well, Rockey and Frances and Allen and Archie and Bennie.
Q What did Allen go by when he come up in thereThey went by McClennan.
Q What did Rockey go by, she married? A Yes sir, she had been married.
Q Was Frances married? A Yes sir, she is married.
Q Well then younger children, younger than Allen, what do they go by, did Archie go by McClellan? A Some call him McClennan and some James.
Q You know where these people came from when they came to Canadian District?A No sir, I don't know.
Q Did you ever hear them say? A I think I heard them say they come from the Choctaw Nation into the Cherokee Nation.
Q Are you positive about that? A Yes sir, I think she told me that I think I heard her say that.
Q Did you ever her say anything about her other whereabouts, where she came from to the Choctaw Nation? A I think she said she went from down in the lower part of the Cherokee Nation down there close to Fort Smith, down into the Choctaw Nation.
Q Did you ever hear her make any other statement? A No.
MR. SMITH waives examination of this witness.
BY MR. HASTINGS:
I want that filed with D-11, Frances Walker, D-12, Rockey Childers, D-13, Allen James, D-15, Archie James, and D-16, Mollie Reed/

---***---

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this September 26th, 1901.

C. R. Breedlove

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Nancy Sheppard et al. for enrollment as Cherokee Freedmen, consolidating the applications of

Nancy Sheppard et al.---------Cherokee Freedmen D 10,
Frances Walker et al.---------Cherokee Freedmen D 11,
Rocky Childers----------Cherokee Freedmen D 12,
Allen James et al.----------Cherokee Freedmen D 13,
Archie James----------Cherokee Freedmen D 15,
Mollie Reid et al.----------Cherokee Freedmen D 16.

D E C I S I O N

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Nancy Sheppard, for herself and minor child, Benjamin James; by Frances Walker, for herself and minor nephews, David and Willis Walker; by Rocky Childers, for himself; by Allen James, for himself and minor child, John A. James; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Reuben James; by Archie James, for himself; by Frank Reid, for himself and wife, Mollie Reid; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Daniel Reid (the said Frank Reid is differently classified and is not embraced in this decision).

The evidence shows that the said Nancy Sheppard was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee Nation during said war but returned thereto in 1866.

The evidence further shows that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that, in 1885, she returned to the Cherokee Nation and has since continuously resided therein. All the other applicants herein are the children or grandchildren of the said Nancy Sheppard, born since 1866, and have resided continuously in the Indian Territory since birth.

It is, therefore, the opinion of this Commission that Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allen James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby

(Signed) T. B. Needles

(Signed) C. R. Breckinridge

(Signed) W E Stanley

Muskogee, Indian Territory,

this DEC 1 1903

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Archy James,
Webbers Falls, I.T.
Cherokee F-D-15
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Copy

Cherokee F.D.10-11
12-13-15-16.

Muskogee, Indian Territory, December 3, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1903, in the consolidated case of Nancy Sheppard et al., granting the applications for the enrollment of Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allen, John A., Reuben and Archie James, and Mollie and Daniel Reid as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby

Chairman.

Enc. D-8.

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D-15

Muskogee, Indian Territory, January 5, 1904.

Archie James,

Webbers Falls, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself as a Cherokee Freedman, together with a copy of the Commission's decision dated December 1, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished you by the attorney for the Nation.

The decision with the record of proceedings had in the case has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Encl. V-6
Register.

Cherokee Freedmen D-10-11-12-13-15-16.

Muskogee, Indian Territory, January 5, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the consolidated case of Nancy Sheppard, et al., including the Commission's decision dated December 1, 1903, granting the application for the enrollment of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen, John A. and Reuben and Archie James and Mollie and Daniel Reid as Cherokee Freedmen.

You are advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest is inclosed.

Respectfully,

Chairman.

Encl. V-8

Through the
Commissioner of Indian Affairs.

Refer in reply to the following:
Land 1837/1904.

Department of the Interior,
Office of Indian Affairs,
Washington, March 3, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is transmitted herewith for the consideration of the Department the record of the proceedings had before the Commission to the Five Civilized Tribes in the matter of the application of Nancy Sheppard for the enrollment of herself and minor nephews, David and Willis Walker; of Rocky Childers for the enrollment of herself; of Allen James for the enrollment of himself and his minor child, John A. James; of Archie James for the enrollment of himself; and of Frank Reid for the enrollment of himself and his wife Mollie Reid; all as Cherokee freedmen citizens of the Cherokee Nation.

On December 1, 1903, the Commission rendered a decision in this case, wherein it appears that subsequent to the application of the said Allen James, he filed a birth affidavit showing the birth of Reuben James and that subsequent to the filing of the application of the said Frank Reid, a birth affidavit has been filed, showing the birth of Daniel Reid.

It further appears from said decision that the application of the said Frank Reid for the enrollment of himself is not considered in this decision, as he is differently classified from the other applicants.

The Commission further finds from the evidence that the

said Nancy Sheppard was a slave of a Cherokee citizen at the beginning of the war and that she was taken out of the Cherokee Nation during said war, but returned thereto in 1866; that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that in 1885 she returned to the Cherokee Nation and has since continuously resided therein; that all the other applicants herein are the children and grandchildren of the said Nancy Sheppard, born since 1866 and have resided continuously in the Indian Territory since birth.

By reason of said facts and findings, the Commission is of the opinion that the said Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allan James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee freedmen citizens of the Cherokee Nation, in accordance with the provisions of Sec. 21, of the Act of Congress approved June 28, 1898 (30 Stats., 495).

To said decision of the Commission the Cherokee Nation files a protest, wherein it is set out that the testimony of the principal applicant, Nancy Sheppard, is very unsatisfactory and is only supported by the testimony of one witness, Fannie F. Kiddy, whose reputation is not of the best and whose record before the Commission is not at all satisfactory.

The Nation then invites attention to the testimony of other witnesses tending to show that the principal applicant did not return to the Nation in 1866 as claimed by her.

I have examined the evidence in this case and also consider that the principal applicant's testimony is very unsatisfactory and in that regard I agree with the protest of the Cherokee Nation, but I also consider that the testimony submitted by the Nation is about as unsatisfactory as that of the applicants; and taking this view of the testimony of both sides, I do not on the whole feel warranted in disturbing the decision of the Commission, as it saw the witnesses, heard them testify and is better able to judge of the weight to be given their testimony than any one else. I therefore concur in said decision and recommend that it be affirmed by the Department.

Very respectfully,

WCB-H

Acting Commissioner.

D. C. 11276-1904.

WCF
FHE
LRS

DEPARTMENT OF THE INTERIOR,

ITD 1842-1904. WASHINGTON. April 6, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 5, 1904, you transmitted the record in the matter of the application for enrollment as Cherokee freedmen of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen and John A. James, Reuben James, Archie James, Mollie and Daniel Reid, including your decision of December 1, 1903, in which you held that the applicants should be enrolled.

The original application included the name of Frank Reid. You state in your decision that he is differently classified. He is therefore not embraced in this decision.

The attorneys for the Cherokee Nation protests against your decision.

Reporting March 3, 1904, the Acting Commissioner of Indian Affairs states that while the evidence introduced on both sides is unsatisfactory, yet it is his opinion that your decision should be approved, and he so recommends.

The Department concurs in said recommendation, and your

decision is accordingly affirmed.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-15.

Muskogee, Indian Territory, April 16, 1904.

Archie James,

Webbers Falls, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 1, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
R-10, et al.

Muskogee, Indian Territory, April 14, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 1, 1903, in the consolidated case of Nancy Sheppard, et al., granting the applications for the enrollment of Nancy Sheppard, Benjamin, Archie, Allen, John A. and Reuben James, Mollie Reid, Daniel Reid, Rocky Childers, Frances Walker, David and Willis Walker, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

WEBBERS FALLS
1904
FEB
ICAM
IND. T.

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, $300.

Unclaimed.

Archie James,

Webbers Falls, Indian Territory.

;Registered

28 FEB 11 1904

REGISTERED

Cher Fr 1278

see Cher Fr 1273, 4, 5, 6, 7 and D 159

Cher Fr 1278

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
APR 5 1901

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., APRIL 5th, 1901.

In the matter of the application of Frank Reed for the enrollment of himself and wife, Mollie Reed, as Cherokee Freedmen; said Reed being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Frank Reed.
Q How old are you? A 22 years old.
Q What is your post office? A Webbers Falls.
Q What district do you live in? A Canadian District.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Did you ever apply to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Who do you want to enroll besides yourself? A My wife.
Q What is your wife's name? A Mollie Walker.
Q How old is she? A 17 years old.
Q Is she a Cherokee Freedman? A Yes, sir.
Q What is her father's name? A Dan Walker.
Q Is he living? A Yes, sir.
Q What is her mother's name? A Mary Walker.
Q Is she living? A No, sir.
Q Where was your wife born? A In Canadian District.
Q Cherokee Nation? A Yes, sir.
Q Has she always lived in the Cherokee Nation? A Yes, sir.
Q What is your father's name? A I don't know, sir.
Q What is your mother's name? A Rachel Poller; she goes by the name of Rachel Gunter now, she is newly married.
Q Is she living? A Yes, sir.
Q Where is your mother? A She is at Webbers Falls.
Q Is she a Cherokee Freedman? A Yes, sir.
Q Do you know how old she is? A No, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and the applicant's name found thereon, page 42, #1143, Frank Reed, Canadian District.

Q Were you ever called anything except Frank Reed; do you know whether you were put on the roll of 1896 or not? A Yes, sir; I think so.
Q Do you know Reed Rider? A Yes, sir.
Q What relation are they to you? A Reed Rider and Lovely are first cousins by marriage:
Q Do you know any Frank Rider in that family besides yourself?
A No, sir.

The 1896 Census Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 97, #27, Frank Reed, Canadian District.

Q Now your mother was Rachel Gunter? A Yes, sir; she is Gunter now.
Q What was her name before she was married? A She went by Poller or Drew.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and Applicant's mother's name found thereon page 14, #387, Rachel Drew, Canadian.

Q Who was your wife's mother? A Mary Walker, Nancy Sheppard's daughter.

Frank Reed, et al.--2.

The 1880 Au thenticated Roll of citizens of the Cherokee Nation examined and the name of the mother of Applicant's wife not found thereon.

Q Is your wife's mother living? A No, sir; dead.

Kerns & Clifton Pay Roll of citizens of the Cherokee Nation examined and the name of Applicant's wife found thereon, page 108, #2703, Mollie Walker, Cooweescoowee Dist.

Q Have you always lived in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES:--The name of Frank Reed is found upon the authenticated roll of 1880 as well as the census roll of 1896. He makes satisfactory proof of his residence, he is duly identified and he will be listed for enrollment as a Cherokee Freedman.

He applies for the enrollment of his wife, Mollie, whose name is found upon the Kerns & Clifton pay roll of 1894, but her name is not found upon the roll of 1880 or the roll of 1896. The averment is made that she is the daughter of Mary Walker, whose name does not appear upon the au thenticated roll of 1880, nor t he census roll of 1896, and that she is the grand daughter of Nancy Sheppard. By reason of the fact of the daoubtful character of the citizenship of Nancy Sheppard, final judgment as to the enrollment of Mollie Reed, wife of Frank Reed, will be suspended and her name will be placed upon a doubtful card, and reference is hereby made to the testimony taken in the case of Nancy Sheppard, D. #10.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilize4e Tribes, he corr4ctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete t ranscript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 5th day of April, 1901.

Commissioner.

1916

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 5 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date APR 5- 1901

Post Office Webers Falls

District Canadian

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

(4) Name of wife Mollie ~~[illegible]~~ Reed Age 17

Owners name ..... Citizenship .....

Year K.C. Page 108 No. 2703 District Coo.

Parents:

Father Dan Walker Citizenship .....

Mother Mary Walker Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by Frank Reed Stenographer Norman J. O.

(D. 10.)

#N16

F. D. 16, 6

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 21 1901

ACTING CHAIRMAN.

NOTICE!

In the matter of the application of Mollie Reed et al for enrollment as a Cherokee Freedman.

Case No. D 16

To Mollie Reed

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21st & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 12 day of May 1901.

L. B. Bell
W. W. Hastings
J. S. Davenport

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to Mollie Reed on the 14th day of May A. D. 1901.

Fannie Smith

Subscribed and sworn to before me this 21st day of May 1901.

J. C. Clark Notary Public.

(Seal)

6. F. D. 16

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 18 1901

ACTING CHAIRMAN.

NOTICE!

In the matter of the application of Mollie Reed et al for enrollment as a Cherokee Freedman.

Case No. D 16

To Mollie Reed

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory. ~~Indian Territory~~, on the following dates, to-wit: May 21st and 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 12th day of May 1901.

L. B. Bell
W. W. Hastings
J. S. Davenport,

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to Edgar Smith atty for applicant on the 18th day of May A. D. 1901.

Emmett Starr

Subscribed and sworn to before me this 18th day of May 1901.

J. Starr Notary Public.

MY COMMISSION EXPIRES
MAY 26th, 1902.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL [illegible] 1901
[illegible]
ACTING CHAIRMAN.

[illegible]

[illegible]

[illegible]

To be filed in case of Mollie Reed, D -16.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 31, 1901.

Supplemental testimony in the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman.

W. W. Hastings, Cherokee Attorney, and Mellette & Smith, attorneys for applicant; Mr. Edgar Smith, of the firm, present.

Famous Smith, being sworn and examined in this case as a witness on behalf of the Cherokee Nation by Commissioner T. B. Needles, testified as follows:
Examination conducted by W. W. Hastings, Cherokee Attorney:
Q What is your name? A Famous Smith.
Q Smith, what is your age? A 48.
Q What is your postoffice? A Webbers Falls.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q How long have you lived in Canadian District? A I lived there ever since I can recollect.
Q Do you know the applicant, Nancy Sheppard? A Yes sir.
Q How long have you known her? A I think the first time I ever saw her was in '78, or '87, I mean.
Q Where did you see her? A I saw her there at Miss Lynch's the first time I saw her.
Q Where was that? A At Webbers Falls.
Q How long have you lived in Canadian District? A Well, I was raised there; ever since I can recollect.
Q Went out during the war? A Yes sir.
Q When did you come back? A I come back in '65.
Q You are living down there since that time? A Yes sir.
Q You are pretty well acquainted with Canadian District, are you? A Yes sir.
Q When was the first time you say you remember of seeing this woman, was it in '87? A Yes, '87.
Q Have you ever had a talk with this woman at any time as to where she had been prior to that time, before that? A I served notice on her the other day, and she said she was a girl and was left out at Texas, and she didn't know how to come back and she was afraid to get back, and she just stayed there and finally came drifting back this way she said.
Q Did she say where she first come to in the Cherokee Nation? A She didn't exactly say; she come to Ike Birthoff's place in the Cherokee Nation.
Q In what district? A Canadian District.
Q When did you first see her there? A I didn't see her until after she come to the Falls the next spring after that.
Q She had been there a year? A She come in the fall of '86.
Q She never at that time said anything of coming back before? A No sir.
Q Did she say who her former owners were, or who she belonged to? A She said she belonged to Joe Lynch and Joe Lynch gave her to Jim Bell as a nurse girl, and he left her in Texas when he left there.
Q Did she say anything about coming back here in '66 with the Franklin family? A No sir, she said she just drifted back; she said she really didn't know where she belonged.
Applicant's Attorney, Smith: Mr. Smith, you say she had this conversation with you after these notices were served on her? A Yes sir, the day I served the notice on her.
Q Who served the notice? A I did.
Q On whom? A On Nancy Sheppard.
Q You served the notice on her with regard to the taking of this testimony, today, you mean? A No sir, they just sent them to me for some of the witnesses, and I notified them to appear here.
Q Did you serve the notice on Nancy Sheppard in this case? A Yes sir.
Q Was it then that she had the conversation with you? A Yes sir.
Q Where did she have it? A At her house.

Q Who was there? A Her and one of her daughters were there.
Q What was her daughter's name? A Roxie; I forget her name. I served the notice on her; her name was Roxie; I forget the name.
Q Her first name is Roxie, is it? A Yes sir.
Q Where were they in the house or out doors? A They came out to where I was; I drove up in a buggy and I told them I had a notice for them.
Q Did you give Roxie a notice also?A Yes sir.
Q What did Roxie have to say? A She didn't know how she would get there.
Q She heard what you said to Nancy and what Nancy said to you? A They asked me to read the notices and I read them to them.
Q Roxie was there when Nancy made this statement? A She was there, and I asked her where the rest of them was; I called over the names I had notices to notify to be here. She said there was one of them and the others were down in the field.
Q That was quite a large family, eight, nine or ten, to serve on? A Yes sir.
Q Did you serve them all? A Yes sir.
Q What interest did you have in it? A They were sent to me down there to serve them.
Q And how did Nancy happen to be talking to you about when she got back here? A She just went on talking after I read the notices to her, and after I read the notice to her she said her daughter was there, Roxie, and I said I had one for her, and I asked her where the boys were; she said they were in the fields.
Q How long did you stay there? A I reckon I stayed there a half hour.
Q And up to that time you never knew anything about when she came to the Cherokee Nation or anything about it? A She come in '87.
Q She came where? A Came to Canadian District. She came to Webbers Falls in '87; she stopped up there on what they called old Gilmore's place close to Checotah.
Q You don't know where she was before she came to Webbers Falls? A No sir.
Q That was in '87 you say? A Yes sir.
Q She might have been there earlier than that might she not? A I don't know that she was; she might have been.
Q It is a good big district? A No, it is a small district.
Q You didn't know everybody that was in the district? A I used to think I knew nearly everybody. I was Sheriff there quite a while.
Q Were you ever on a scout there? A Yes sir, I scouted ten years, nearly ten years.
Q Were you ever in jail? A Yes sir.
Q How long? A About 25 months.
Q At what place? A At Fort Smith.
Q Were you convicted of anything? A Yes sir.
Q Of what? A I was convicted for murder and sentenced to hang there.
Q And what became of the case? A They nolle pros. it.
Q Finally it was nolle pros.? A Yes sir.
Q Your health was very poor while you were in jail, was it not? A Yes sir.
Q The doctor thought you had consumption? A I was having hemorrhages of the lung.
By W. W. Hastings: You got a new trial, did you? A Yes sir.
Q And then your case was nolle pros.? A Yes sir.

Emma Hilderbrand, being sworn by Commissioner Needles, and examined by W.W. Hastings, Cherokee Attorney, testified as follows: Witness on part of the Cherokee Nation.
Q What is your name? A Emma Hilderbrand.
Q What is your age? A 47 years old.
Q Where do you live? A Webbers Falls.
Q Are you a citizen of the Cherokee Nation by blood? A Yes sir.
Q Do you know the applicant, Nancy Sheppard? A Just know her when I see her.

Q How long have you lived about Webbers Falls? A Born and raised right where I am living.
Q How long has Nancy Sheppard been down there in that neighborhood or country? A I don't know.
Q When did you first remember of seeing her? A About nine years ago.
Q Did you ever have any talk with her? A Very little.
Q Did you have any talk with her as to where she come from? A I simply asked her where she come from.
Q Please state that? A I asked her where she come from and she said she come from Texas, and she came over to the Choctaw Nation and married and she lived there till she had those five children.
Q Did she state where she went from there? A No sir.
Applicant's Attorney, Smith: Mrs. Hilderbrand, she didn't tell you when she came back from Texas? A No sir, she didn't.
Q She didn't tell you when she came back to the Choctaw Nation? A No sir.
Q You don't know when it was? A No sir, I don't.
Q You don't know whether she was in the Cherokee Nation in 1866 or not? A No sir, I don't.
Q You don't know anything about when her Texas, if she had a Texas trip, was? A No sir.
Q When was it you had a conversation with her? A It was - it has been nine years ago when I had the conversation with her; my mother died and she was there. They were living on my mother's place.
Q Nine years ago? A Yes sir.
Q Who did you first tell about having this conversation with this woman? A Mr. Famous Smith, I believe.
Q When did you tell him? A It has been three weeks ago.
Q How did you happen to tell him about the conversation you had nine years ago? A He simply came to my house and asked me if I knew Aunt Nancy, and I said I knew her when I saw her.
Q What else did he say? A And he asked me where she came from; I told him she come from Texas; I told him she come over in the Choctaw Nation and married and stayed there until she raised her five children, or until she had her five children. He asked me where she come from when she came to the Cherokee Nation and I told him I don't know.
Q You were talking about a conversation you had nine years before? A Yes sir.
By W. W. Hastings: What name did this woman go by when she first came up there? A Sheppard.
Q What name did her children go by? A McClaren or McClenan, something like that.
Q Did any of these children go by the name of James then? A No sir. They were McClaren or McClenan, one or the other.
Q Something that sounded like that? A Yes sir.
Famous Smith recalled and examined by W. W. Hastings:
Q What name did these older children go by? A McCoenan or McClaren, or something like that. I never knewed them by the name of James. I always knewed them by the name of McClenan.
By Edgar Smith of Famous Smith: Are you speaking now of the sons of Nancy Sheppard? A Yes sir, said to be her sons.
Q Mr. Smith, they voted in the elections down there, didn't they? A Yes sir, they voted in the last election is the only one this agreement, this treaty roll is the only election I knowed of them voting in.
Q To refresh your recollection, haven't you gotten them to vote for you? A I don't know that I have.
Q Do you know that you haven't? A No, I don't know whether I have or haven't.
Q Did your brother ever run for office down there, or did you have a brother? A Yes, I had a brother.
Q Did he run for some office? A I used to have a brother that was Clerk of the District there.
Q Did these boys vote for him? A I don't think they were old enough then; it has been a good long while ago.

Q Well, you are the man that looked up the witnesses in this case, are you, Mr. Smith? A I knowed of these witnesses there.

John Melton, being sworn and examined by Commissioner T. B. Needles, testified as follows: Witness on behalf of the Cherokee Nation.

Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your postoffice? A Benge.
By W. W. Hastings, Cherokee Attorney: How far do you live from Fort Smith? A Four or five miles.
Q Where did you live in the fall of 1866? (Not answered.)
Attorney Smith: Have you ever been convicted of any offense?
A No sir.
By W. W. Hastings: Where did you live in the fall of 1866? A I lived in Fort Smith principally.
Q When did you move over to the Cherokee Nation? A Along in December, '66.
Q Where did you live in the early winter, in January and February of '67, and spring of '67? A I lived on the Campbell place.
Q How far is it from what is known as the old Franklin place to the Campbell place in Sequoyah District? A The houses are some three-quarters of a mile apart.
Q Do you know Nancy Sheppard, the applicant, did you ever see her?
A I have here of late. I seen her before the war, I reckon, but I wouldn't know her now. I am identifying her from the time I seen her.
Q You were living on the Campbell place which was three-quarters of a mile from the Franklin place in '67? A Yes sir.
Q Did you ever see this Nancy Sheppard down there in the spring of '67? A Not that I know of.
Q You were pretty well acquainted there at that time? A Yes sir.
Q You worked there on the Franklin place that year? A No sir.
Q What did you do that year in '67? A I cultivated land on the Campbell place that year.
Q When was the first time you saw this applicant to know her after the war? A Here during Court at Fort Gibson.
Q This Dawes Commission? A Yes sir, in May.
Q In April, wasn't it? A Yes, April.
Attorney Smith: Which was it April or May? A April.
Q It was January, wasn't it? A I reckon not.
Q What year was it in? A In 1901.
Q Well now, where were you in 1867? A I was down here on the Campbell place; this side of the river from Fort Smith.
Q Who was there with you? A Me and my mother and her children all lived together there.
Q Where did you go to during the war? A I went out to Texas.
Q When did you get back? A In '65. I worked in the nation here in '65 some, passing backward and forward, stayed some time on this side of the river and some time on the other.
Q Are you on the 1880 roll? A Yes sir.
Q Do you say you knew Nancy Sheppard before the war? A I knowed a young woman, a young girl, so said to be Bossen Lynch's daughter, but from the time I seen her until I seen her again I couldn't identify her to be the same person or not.
Q How long has that been, forty years? A I seen her just before the war commenced.
Q Didn't you see her anymore until this year? A No sir.
Q You don't know where she was in 1866, do you? A No sir.
Q Or '67? A No sir, I don't remember of seeing her; if I seen her, I don't recollect.
Q How far is that Campbell place from Fort Smith? A It is hardly a mile just on this side of the river.
Q In 1867, wasn't you at Fort Smith working there? A No sir, I never worked any in Fort Smith in '67; I worked altogether on this side of the river.

Q That is all you know about it, is it? A Yes sir.

Recross examination of Applicant by Attorney, W.W. Hastings, for theCherokee Natiân:
Q Did you work fora man by the name of Dr. Bradford, in Rusk County, Texas? A I don't remember if I did; I worked for several.
Q Don't you remember Dr. Bradford in Rusk County, Texas? A No sir, it don't seems as if I do. I don't remember of working for anyone but Brown.
Q I wantto know if you could think after refreshing your memory where you were married the first time? A I was married down - well, I did say it was in the Cherokee Nation, but since I found out the distance in the rivers, I was married in Poteau bottoms.
Q In the Choctaw Nation? A Yes sir, between those two rivers.
Q Did these oldest children of yours go by the name of McClenan?
Q They do down home; their father's owner was named McClenan, and they would rather carry that name; they wanted to go by the father's master's name, but his name is James.
Q Was that your first husband? A Yes sir.
Q That was the first man by whom you had a child? A No sir, it wasn't.
Q What was your first husband's name? A They called him - I didn't stay with him but a little while.
Q What name did he go by? A He principally went by - well I don't know his name. McClenan was the next man. I might say wrong.
Q You don't remember what his name was? A Yes, he went by Jerry.
Q You don't remember his other name? A No sir.
Q Where did you live with him? A I didn't live with him no time; I only stayed with him about a week.
Q Did you have any child by him? A No sir.
Q The first child you had was by McClenan, or whatever it was?
A Yes sir, my children are all James', but his master was McClenan, and they would rather have that name. Someof them votedMcClenan and someof them voted James.
Attorney Smith: Do you know Famous Smith? A I don't hardly know him when I see him.
Q Did he come to your house to serve noticesan you in this suit?
A Yes sir.
Q You heard his statement that you told him that you had been given by Jee Lynch to Jim Bell? A Yes sir.
Q Did you make such a statement as that to him? A No sir, because I couldn't do that.
Q Just answer the question? A No sir, I didn't.
Q You heard his statement that you had just drifted around in the Choctaw Nation and hadn't come back here untila short time before you went to Webbers Falls, with something substantially like that - did you make such a statement as that to him? A No sir, he never asked me and I never told him. I asked him what was the matter, and he said, I don't know. He handed me the notice. I said Iwant you to read this to me and he did, and let me know if I have to produce witnesses or not, and he read it, and said yes; I asked where is Mrs. Lynch and he said she went to the Springs, and I said I would have to get somebody else.
Q Did you have any talk at all as to the time youcame back to the Cherokee Nation after the war? A Never has in my life.
Q Who was there when Famous Smith came to serve these notices?
A Roxie Childers, Jimmie James and Jim Jones were standing at the fence when I received the papers.
Q Were they present when you and Smith were talking? A Yes sir, standing right at thefence. He handed the papersover the fence tous.
Q Do you know Mrs. Hilderbrand? A Yes sir.
Q You heard her statement, did you have any conversation with her - were you at her house when her mother died? A Yes sir, I was there when her mother died.
Q You heard what she stated, did you tell her that? A No sir.
Q Doyou know who else was there when you were at her house?

A There was a whole lot; I couldn't tell you who all.
Q How long ago has it been? A I can't count the years like she can. I can count it so you can count it.
Q It hasbeen agood while has it? A I made two crops on her mamy's place and the second year I stayed there her mother died, and we still made a crop, and then I moved down to the Starr place and I stayed there one year and then I moved to the Blackstone place one year and I been on the place I have now for five years.
Q What wasit you say about being married to a man named Jerry before you married James - what became of Jerry? A Dead I reckon.
W.W. Hastings: Well now, I will ask you again, you didn't know before, but who did you come back to the Cherokee Nationwth when youfirst come back? A With the Campbell darkies, Fanny Campbell, but they stopped inthe Choctaw Nation somewhere, I don't know what they call it, but over there somewhere, they couldn't get home, and the Campbell darkies come on across and I come along with them.
Q Which one in particular? A Old Uncle Jack Campbell, Old Caroline Charles. I remember them alright, and they had one girl I believe she was named Caroline, and a whole lot more colored folks that lived over here; I was young, I don't remember.
Q Who did you live with the first year? A I always said it was a Smith; I didn'tlive with them particularly; anywhere where I could get anything to eat.
Q How far from the Franklin place? A I don't know.
Q How far from Fort Smith? A It was pretty close to Fort Smith.
Q About how many miles? A I don't know.
Q Two or three? A I don't know.
Q As much as five? A I don't know. You all know better than I do.
Q You can form an estimate how far you lived? A It wasn't so very far.
Q Was Smiths a Cherokee family with whom you lived? A I don't know, they claimed it.
Q You don't know? A Nosir.
Q How far were you from the Arkansas River? A It wasn't so far. I don't know the distance.
Q Were you near to it or some distance from it? A I wont tell it because I have no mind of it.
Q Was it within two or three miles? A I don't know it wasn't far.
A It may have been one and a half miles and maybe two miles; I don't know.
Q Is that your best knowledge one and a half miles or two miles? A It might have been that; I don't know.
Q You think it was about that far? A Somewhere along there, I reckon, I don't know.
Q On which side of the river did you live? A This side.
Q Was that east, or west, or north? A I don't know. I don't know any dates, can't count 100; I cammnly count one, twomnd three.
Attorney Smith: Go on now, if you can, and tell me after you got back here at the bottom near Fort Smith, where you lived as well as you can up to the time you went to Webbers Falls? A I lived in between them two rivers, stayedin there withsome colored people and then I come from there up that river and come over on this side up there in the mountains on that river, and lived a while between Muskogee and Canadian River and there I stayed a good while, I just don't know how long.
Q Where did you go from there? A Icome down to Lynch's ranch.
Q Where is it now? A I don't think it was his then; it is called Lynch's ranch now.
Q How long were you there before you went down into Webbers Falls neighborhood? A I was up at Lynch's ranch about a year.
Q Where did you go from Lynch's ranch? A I went down to Miss Lynch's and he got some land for me and we planted a crop, and the horse died, and he told me to go out in the slash, from town, and

make a crop there.
Q Have you any idea, or can you not tell how long you lived in the Arkansas River bottom before you went up on the Lynch Ranch?
A No sir, I really can't. I can't count unless I count the crops I seened made. I know I stayed there until they made two crops and gathered it.
Q State where? A Down close to the Campbell place.
I always said it was on the Campbell place, I don't know whether it was or not; I said it was the Campbell place.
Q Was that in the Cherokee Nation? A Yes sir.
Q How far from Fort Smith? A I couldn't tell.
Q And you stayed there two years? A Yes sir, they made two crops and gathered them.
Q Where were you living nearest to what town before you went to the Lynch place? A Checotah and Whitefield; there was nothing there hardly, no buildings much.
Q Do you remember how far you were from Whitfield? A No sir.
Q On which side of the river was you on? A On this side.
Q Where have you been all the time now between the time you were living right at the place that you went from to the Lynch place and the time you left the Campbell place, if it was the Campbell place? A I must have stayed between those two rivers, I reckon, maybe about six or seven years, backwards and forth; you know we didn't have no place.
Q How far is it if you know from Fort Smith to Whitefield? A Lord in heavens knows, I don't know, it is a good ways.
Q How many places did you live on, the place you lived on near Fort Smith, and the place at Whitefield? A I can't remember all the places; we just rented. At first we didn't rent, I worked around for my living for one and then another. I reckon some Choctaws, Cherokees and colored along that way, but then after I tried to settle down and had a few children then we rented.
Q Can you give us an idea how many places you lived on between Fort Smith and the place you were living on near Checotah? A No sir; four or five.
By W. W. Hastings: What were the names of those rivers you lived between? A One is Poteau.
Q What is the other? A Arkansas.
Q It is between those rivers you lived in between '67 and '68 when you made two crops? A They made two crops; I never made none.
Q That is where you were living? A No sir, I was on this side close to the Campbell place.
Q Who was making the crops over there between the rivers? A Colored folks and some Cherokees.
Q And you stayed over here a couple of years, did you? A Yes sir.
Q You don't know who you were with? A Old man Jack Campbell a while.
Q On the Campbell place? A Yes sir, backward and forward down there. I don't know the other people; they were Cherokees, but I don't know their names.
Q With the exception of those people you can't tell the names of any Cherokees with whom you lived or on whose place you lived until you come to Canadian District in the eighties in the Cherokee Nation? A I can't tell you none but the Campbells is all. I might if I could think over it.
Q It is your business to think over it? A I knowed I stayed - I went over to an old man's name I won't forget, if I think his name was Sharnecko or Yarneko, or something like that; I cooked and washed for him.
Q How long did you stay there? A I don't know how long.
Q When was that? A When I was down there on the river.
Q In '67? A I don't know anything about '67.
Q Was that after you first come back after the war? A Yes sir.
Q Where did Yarneko live? A Down the river up in the mountains.
Q How far from the Campbell place? A I don't know.
Q About how many miles? A I don't know; I told you I couldn't count.
Q Was it a half days drive? A They would go in the morning

and come back before night. I couldn't tell.
Q What kind of a house did Yarneko live in? A Old log house,
Q Did he have a family? A He had a woman.
Q Did he have any children? A No sir.
Q How long did you stay with Yarneko? A I don't know how long; three or four months; maybe longer than that. I just couldn't give no length of time because I don't know.

Supplementary evidence in the case of Nancy Sheppard et al. D-10 to be filed in cases of Frances Walker et al. D -11. Rockey Childers, D-12, Allen James, et al. D-13, Archie James, D-15, and Mollie Reed, D-16.

By agreement of Counsel, the supplementary testimony taken this day will be made a part of the record in the cases of the applications of the above parties and a copy of the supplementary testimony will be filed with each of the applications above named.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger.

Subscribed and sworn to before me this 25th day of July, 1901.

J. Dobson

Notary Public.

[illegible]

[illegible] Mr. Chairman, [illegible]

[illegible] I think [illegible] to [illegible] the [illegible] [illegible] [illegible]

File with C. F. D- 16, Mollie Reed.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., Sept.23,1901.

In the matter of the application of Nancy Sheppard for enrollment as a Cherokee Freedman. C.F.D-10

Appearances:
Mr. Smith, of Mellette & Smith, for applicant,
Mr. W. W. Hastings, for the Cherokee Nation.

TESTIMONY TAKEN ON THE PART OF THE CHEROKEE NATION.

Com'r Needles? Witnesses placed under the rule.

RACHEL GUNTER, being sworn by Commissioner Needles, testified as follows:
BY MR. HASTINGS:
Q What is your name? A Rachel Gunter.
Q What is your age? A I don't know exactly, I think my age is near about 50 years old.
Q You were born before the war? A Yes sir
Q Whereda you live now? A Webbers Falls.
Q How long have you been living there? A Been living there all my life, I was born in Flint District. And I have been living there ever since the war, I was brought back there.
Q Do you know a colored woman down in Canadian District near Webbers Falls by the name of Nancy Sheppard? A Yes sir.
Q How long have you known her?A Only about 15 years is all the long I have knowed her.
Q How far do you live from her? A About a mile and a half I think, as near as I can guess.
Q How long has she lived that near you? A She has lived right close around there ever since I got acquainted with her.
Q Has she any children? A Yes sir.
Q Give the names of some of them? A Frances Walker, Rockey Childers, Allen McClellan, Archie McClellan, Bennie McClellan.
Q Those are her children are they? A She said they was hers, I don't know them to be hers.
Q You know where Nancy Sheppard moved from when she moved to your neighborhood in Canadian District? A Said she come from the Choctaw Nation.
Q You know where she moved from when she moved to the Choctaw Nation? A Said she come from Texas, and that's all I know about it.
Q You know when these children of hers that you have mentioned came into Canadian District, before or after their mother, or about the same time? A They all come there about the same time, but Mrs. Walker, she was married, and she come a year or two after her ma did, but the rest of them she brought them there with her.
Q You think Frances came a little later? A Yes sir, she come a little later.
Q Who was she talking to or with when she was telling about her whereabouts? A She was talking to a preacher named Kinney Wickliffe, and he was at my house, and I was present; what I know I heard it; she was talking to him and I was present.
Q You never saw her in that country until about 15 years ago?
A No sir.
Q You know her before the war? A No sir, 15 years is all I know her.
Q She and Wickliffe come from the same country? A I think so, they seemed to be well acquainted with each other.
Q Talking about old times? A Yes sir, talking about old times, that I didn't know nothing about.
BY MR. SMITH:

Q Where was she when she and Wickliffe were talking?A They were at my house.
Q Anybody else there besides Wickliffe? A ~~&k xxx~~,There was only us three and some small children I had.
Q Wickliffe is dead is he?A Yes sir, I suppose he is dead. I heard he was dead.
Q Did she ever make any statements to you in the presence of anybody that's alive now? A I never heard her say any more about it after that, to my recollection.
Q How long ago has that been? A She hadn't been threr more than two or three years when I heard her tell that preacher that.
Q That has been some 12 or 13 years ago has it? A I don't know now, I can't tell; I hadn't been acquainted with her but a short while.
Q You say she has been living over there about 15 years? A Yes sir
Q And that was a couple or three years after she come there? A Yes sir, I think it was, as near as I can guess at it, I don't know positively,it was that time; I know I heard it, the preacher was there at my house.
Q When was the next time you thought about that conversation afterwards? A It didn't bother my mind nothing about it to know anything about it until I heard that I had to come up here, and they told me what I was coming for, and I said I didn't know nothing about it, that was all I knowed.
Q Who told you? A Famous Smith.
Q He told you? A He was the fellow said he had me subpoenaed up here; I told him I didn't know nothing about it, but that short time I got acquainted with her and heard this talk, that's all I knowed.
Q Famous Smith had you to come up here?A That's what he said.
Q When did he tell you that?A About a month ago. But I thought he was joking; I never expected to come at all.
Q What wasit Famous Smith said to you? A He told me I had to witness against Nancy Sheppard; I said what for, I don't know nothing about her; I said you know her better than I do; he said I don't know nothing about her, he told me I did, I told him I didn't.
Q He said you did know something?A Yes sir.
Q And you said you didn't? A Yes sir, I told him I didn't.
Q And he had his way about it, and you did? A Yes sir, of course if I could have kept out of it I wouldn't have come.

BY MR. HASTINGS:

Q He had~~axxx~~ subpoenaed for you? A Yes sir, he had a subpoena; I told him I couldn't read and he read it to me.

BY MR. SMITH:

Q Did Famous finally tell you about this statement that you have made? A I asked him what did he want me to state about it, and he told me, well I says I don't know nothing about it.
Q You asked Famous Smith what did he want you to state?A Yes sir.
Q What did he say? A He says about how long she been here and where she come from; I says you know her, I didn't know her when she lived up there on another place; Webbers Falls was the first place I got acquainted with her.
Q You told Famous you didn't know where she come from? A Yes sir.
Q Then what did he say? A Told me I had to come up here.
Q Did he tell you whathe heard, say something about where she came from? A Yes sir, he heard that I said so, and I told him I didn't say so, I told him I didn't because I didn't want to come.
Q He said you did? A Yes sir.
Q What did he tell you you said? A He didn't tell me what Isaid; he said I would have to tell it; told me if I was brought up here to swear the truth I would have it to tell; I told him I wouldn't tell nothing but the truth.
Q Who is this man that came here with you? A That's my brother.
Q Was he there when Famous Smith come to see you? A No sir, he was

at his own home or somewheres else.

BY MR. HASTINGS:

Q Have you told the truth? A Yes sir.

Q Did Famous ask you to tell anything else but the truth? A No sir, he didn't ask me to tell a word but the truth.

MOSE PARLOR, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

Q What is your name? A Mose Parlor.

Q What is your age? A 41.

Q What is your post-office? A Webbers Falls.

Q You live in Canadian District? A Yes sir.

Q You know Nancy Sheppard? A Yes sir.

Q How long have you known her? A I have known her about 15 years I guess, somewheres along in there.

Q You know her family? A Yes sir, I know them.

Q Name some of her children? A Well, Rockey and Frances and Allen and Archie and Bennie.

Q What did Allen go by when he come up in there They went by McClennan.

Q What did Rockey go by, she married? A Yes sir, she had been married.

Q Was Frances married? A Yes sir, she is married.

Q Well then younger children, younger than Allen, what do they go by, did Archie go by McClellan? A Some call him McClennan and some James.

Q You know where these people came from when they came to Canadian District? A No sir, I don't know.

Q Did you ever hear them say? A I think I heard them say they come from the Choctaw Nation into the Cherokee Nation.

Q Are you positive about that? A Yes sir, I think she told me that I think I heard her say that.

Q Did you ever her say anything about her other whereabouts, where she came from to the Choctaw Nation? A I think she said she went from down in the lower part of the Cherokee Nation down there close to Fort Smith, down into the Choctaw Nation.

Q Did you ever hear her make any other statement? A No.

MR. SMITH waives examination of this witness.

BY MR. HASTINGS:

I want that filed with D-11, Frances Walker, D-12, Rockey Childers, D-13, Allen James, D-15, Archie James, and D-16, Mollie Reed/

---***---

M D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this September 26th, 1901.

C. R. Breckinridge.

Commissioner.

F-1278

32

IN RE

THE DEATH OF

Daniel Reid

a ~~citizen~~ Freedman of the

Cherokee Nation.

Approved July 14 1905

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
July 14 1905

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Samie Reid (Here insert name of deceased.)
a ~~citizen~~ Freedman of the Cherokee Nation, who formerly resided at or near
Webbers Falls (Here insert name of postoffice.), Ind. Ter., and died on the 7 day of
August, 1904.

AFFIDAVIT OF RELATIVE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Mollie Reid, on oath state that I am 21
years of age and a ~~citizen by~~ Freedman, of the Cherokee Nation;
that my postoffice address is Keefeton (Here insert name of postoffice.) Ind. Ter.; that I am
mother (State relationship: as the father; an uncle; a cousin, etc.) of Samie Reid (Here insert name of deceased.)
who was a ~~citizen by~~ Freedman, of the Cherokee Nation
and that said Samie Reid (Here insert name of deceased.) died on the 7th day of
August, 1904.

WITNESSES TO MARK: Mollie Reid

(Must Be Two Witnesses.)

Subscribed and sworn to before me this 6th day of July, 1905.

Samuel Foreman
Notary Public.

AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
DISTRICT.

I, , on oath state that I am
years of age, and a citizen by of the Nation;
that my postoffice address is (Here insert name of postoffice.), Ind. Ter.;
that I was personally acquainted with (Here insert name of deceased.)
who was a citizen, by , of the Nation;
and that said (Here insert name of deceased.) died on the day of
, 1

WITNESSES TO MARK:

(Must Be Two Witnesses.)

Subscribed and sworn to before me this day of 190

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Nancy Sheppard et al. for enrollment as Cherokee Freedmen, consolidating the applications of

Nancy Sheppard et al.----------Cherokee Freedmen D 10,
Frances Walker et al.----------Cherokee Freedmen D 11,
Rocky Childers----------Cherokee Freedmen D 12,
Allen James et al.----------Cherokee Freedmen D 13,
Archie James----------Cherokee Freedmen D 15,
Mollie Reid et al.----------Cherokee Freedmen D 16.

D E C I S I O N

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Nancy Sheppard, for herself and minor child, Benjamin James; by Frances Walker, for herself and minor nephews, David and Willis Walker; by Rocky Childers, for himself; by Allen James, for himself and minor child, John A. James; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Reuben James; by Archie James, for himself; by Frank Reid, for himself and wife, Mollie Reid; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Daniel Reid (the said Frank Reid is differently classified and is not embraced in this decision).

The evidence shows that the said Nancy Sheppard was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee Nation during said war but returned thereto in 1866.

The evidence further shows that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that, in 1885, she returned to the Cherokee Nation and has since continuously resided therein. All the other applicants herein are the children or grandchildren of the said Nancy Sheppard, born since 1866, and have resided continuously in the Indian Territory since birth.

It is, therefore, the opinion of this Commission that Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allen James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby

(Signed) T. B. Needles

(Signed) C. R. Breckinridge

(Signed) W E Stanley

Muskogee, Indian Territory,

this DEC 1 1903

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ALL MAIL TO THE COMMISSION AT MUSKOGEE, I. T.

Muskogee, Indian Territory, October 12, 1901.

Mr. Frank Reed,

Webbers Falls, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of birth affidavit in the matter of the application of your son, Daniel Reed, for enrollment as a Cherokee Freedman.

You will be required to file with the Commission either your original marriage license and certificate or certified copy thereof. In addition, you will be required to appear before the Commission and show whether either of you was previously married, and if so whether you have been lawfully released from former marriage before contracting the present marriage, and whether you and your present wife have continued to live together.

Yours truly,

Acting Chairman.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 11 1902

ACTING CHAIRMAN.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Frank Reed,
Webbers Falls, I.T.
Cherokee F-D-16
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee Freedmen
D-16

Muskogee, Indian Territory, January 5, 1904.

Frank Reid,

Webbers Falls, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in the matter of your application for the enrollment of your wife, Mollie Reid, and your minor child, Daniel Reid, as Cherokee Freedmen, together with a copy of the Commission's decision dated December 1, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished you by the attorney for the Nation.

The decision with the record of proceedings had in the case has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Encl.-V-7
Register.

Cherokee Freedmen D-10-11-12-13-15-16.

Muskogee, Indian Territory, January 5, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the consolidated case of Nancy Sheppard, et al., including the Commission's decision dated December 1, 1903, granting the application for the enrollment of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen, John A. and Reuben and Archie James and Mollie and Daniel Reid as Cherokee Freedmen.

You are advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest is inclosed.

Respectfully,

Chairman.

Encl. V-8

Through the
Commissioner of Indian Affairs.

Refer in reply to the following:
Land 1837/1904.

Department of the Interior,
Office of Indian Affairs,
Washington, March 3, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is transmitted herewith for the consideration of the Department the record of the proceedings had before the Commission to the Five Civilized Tribes in the matter of the application of Nancy Sheppard for the enrollment of herself and minor nephews, David and Willis Walker; of Rocky Childers for the enrollment of herself; of Allen James for the enrollment of himself and his minor child, John A. James; of Archie James for the enrollment of himself; and of Frank Reid for the enrollment of himself and his wife Mollie Reid; all as Cherokee freedmen citizens of the Cherokee Nation.

On December 1, 1903, the Commission rendered a decision in this case, wherein it appears that subsequent to the application of the said Allen James, he filed a birth affidavit showing the birth of Reuben James and that subsequent to the filing of the application of the said Frank Reid, a birth affidavit has been filed, showing the birth of Daniel Reid.

It further appears from said decision that the application of the said Frank Reid for the enrollment of himself is not considered in this decision, as he is differently classified from the other applicants.

The Commission further finds from the evidence that the

said Nancy Sheppard was a slave of a Cherokee citizen at the beginning of the war and that she was taken out of the Cherokee Nation during said war, but returned thereto in 1866; that the said Nancy Sheppard removed to the Choctaw Nation about two years after her return in 1866 and resided therein for several years; that in 1885 she returned to the Cherokee Nation and has since continuously resided therein; that all the other applicants herein are the children and grandchildren of the said Nancy Sheppard, born since 1866 and have resided continuously in the Indian Territory since birth.

By reason of said facts and findings, the Commission is of the opinion that the said Nancy Sheppard, Benjamin James, Frances Walker, David Walker, Willis Walker, Rocky Childers, Allan James, John A. James, Reuben James, Archie James, Mollie Reid and Daniel Reid should be enrolled as Cherokee freedmen citizens of the Cherokee Nation, in accordance with the provisions of Sec. 21, of the Act of Congress approved June 28, 1898 (30 Stats., 495).

To said decision of the Commission the Cherokee Nation files a protest, wherein it is set out that the testimony of the principal applicant, Nancy Sheppard, is very unsatisfactory and is only supported by the testimony of one witness, Fannie F. Kiddy, whose reputation is not of the best and whose record before the Commission is not at all satisfactory.

The Nation then invites attention to the testimony of other witnesses tending to show that the principal applicant did not return to the Nation in 1866 as claimed by her.

I have examined the evidence in this case and also consider that the principal applicant's testimony is very unsatisfactory and in that regard I agree with the protest of the Cherokee Nation, but I also consider that the testimony submitted by the Nation is about as unsatisfactory as that of the applicants; and taking this view of the testimony of both sides, I do not on the whole feel warranted in disturbing the decision of the Commission, as it saw the witnesses, heard them testify and is better able to judge of the weight to be given their testimony x than any one else. I therefore concur in said decision and recommend that it be affirmed by the Department.

Very respectfully,

WCB-H

Acting Commissioner.

D. C. 11276-1904.

WCF
FHE
LRS

DEPARTMENT OF THE INTERIOR,

ITD 1842-1904. WASHINGTON. April 6, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 5, 1904, you transmitted the record in the matter of the application for enrollment as Cherokee freedmen of Nancy Sheppard, Benjamin James, Frances, David and Willis Walker, Rocky Childers, Allen and John A. James, Reuben James, Archie James, Mollie and Daniel Reid, including your decision of December 1, 1903, in which you held that the applicants should be enrolled.

The original application included the name of Frank Reid. You state in your decision that he is differently classified. He is therefore not embraced in this decision.

The attorneys for the Cherokee Nation protests against your decision.

Reporting March 3, 1904, the Acting Commissioner of Indian Affairs states that while the evidence introduced on both sides is unsatisfactory, yet it is his opinion that your decision should be approved, and he so recommends.

The Department concurs in said recommendation, and your

decision is accordingly affirmed.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos Ryan

1 inclosure.

Acting Secretary.

Cherokee Freedmen
D-16.

Muskogee, Indian Territory, April 16, 1904.

Mollie Reid,

Webbers Falls, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated December 1, 1903, granting, among others, your application for the enrollment of yourself and your minor child, Daniel Reid, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-10, et al.

Muskogee, Indian Territory, April 16, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 1, 1903, in the consolidated case of Nancy Sheppard, et al., granting the applications for the enrollment of Nancy Sheppard, Benjamin, Archie, Allen, John A. and Reuben James, Mollie Reid, Daniel Reid, Rocky Childers, Frances Walker, David and Willis Walker, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

Cher Fr 1279

see Cher Fr 447 and D69

Cher Fr 1279

DOUBTFUL, as to Wife and Child:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., APRIL 15th, 1901.

In the matter of the application of William Coody for the enrollment of himself, wife and one child as Cherokee Freedmen; said Coody being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name? A William Coody.
Q How old are you? A 27.
Q What is your post office? A Braggs.
Q In what district do you live? A Illinois.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A Wife and one child.
Q How long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes, sir.
Q Give me the name of your father? A Lige Coody.
Q Is he living? A Yes, sir.
Q Give me the name of your mother? A Lydia Coody.
Q Is she alive? A No, sir.
Q How long has she been dead? A About three years I guess.
Q Give me the name of your wife? A Jenetta.
Q How old is your wife? A I don't exactly know her age.
Q Well, about how old? A About 20 or 21.
Q When did you marry her? A I think it was in '96.
Q Were you ever married except to her? A No, sir.
Q Was she ever married except to you? A Yes, sir.
Q How many times? A Once.
Q To whom was she married then? A I don't know the fellow, they called him Taylor Mack.
Q Is he dead? A No, sir.
Q They parted did they? A He was sent to the penitentiary.
Q And then she married you? A Yes, sir.
Q Your wife claims to be a Cherokee Freedman herself does she? A Yes, sir.
Q Has she lived in the Cherokee Nation all her life? A Yes, sir.
Q Give me the name of your wife's father? A George Drew.
Q Is he alive? A Yes, sir.
Q Give me the name of your wife's mother? A Beckie Parlor.
Q Is she alive? A Yes, sir.
Q Isn't she living with George Drew? A No, sir.
Q They separated did they? A Yes, sir.
Q She is living now with a man named Parlor? A Yes, sir.
Q How long has she been living with this man Parlor? A I don't know.
Q Give me the name of your child? A Willie.
Q William? A Yes, sir.
Q How old is the child? A About two months old.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 520, #502, Wm. Coody, Illinois District.

Q Where is your wife? A She is at Braggs.
Q Down home? A Yes, sir.

(Com'r to Roll Clerk: Do you find Jenetta on the 1880 Roll? Clerk: No, sir.)

The 1896 Census Roll of citizens of the Cherokee Nation examined and the names of applicants found thereon as follows:

#113,
Page 944, William Coody, Illinois District.
Page 944, #114, Jennie Coody, Illinois District.

Q Do you know what name your wife's mother had in 1880?
A No, sir, I don't.
Q Was your wife known as a Drew when you married her? A No, sir.
Q She was known as a Mack? A Yes, sir.
Q And before that she was known as a Drew? A Yes, sir.
Q Is there anybody here who knows her mother? A Yes.

FOX GLASS, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:
Q Give me your full name? A Fox Glass.
Q How old are you? A About 50 some odd.
Q What is your post office? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant here, William Coody? A Yes, I know him but I don't know much about him.
Q Do you know his wife? A No, sir, I don't believe I do.
Q Do you know a woman named Beckie Parlor? A Yes, sir, I know her, Jim Parlor's wife.
Q Beckie Parlor, what was her name before she was married?
A Baptist.
Q Where is she living now? A I think she lives at Braggs.
Q Is she known as a Cherokee Freedman? A I suppose so.
Q You don't know her as such? (No response.)
Q When did she take the name of Parlor, how long ago?
A I guess she has been wearing that name ever since Jim Parlor married her.
Q How long ago has that been? A About 15 or 20 years.
Q Well now, before that she was married to a man named Drew?
A That is the man, sometimes they called him Jim Parlor and sometimes they called him Jim Drew.
Q She lived with a man by that name? A I think they lived together a little while.
Q And after that she lived with this man parlor, and he is sometimes called Drew as well as Parlor? A Yes, sir.
Q What is his full name? A Jim Parlor.
Q James Parlor? A Yes, sir.
Q Do you know when this man and his wife, Jenetta, married?
A No, sir.
Q You know that they have lived together as husband and wife?
A No, sir; I don't know they was married.
Q Aren't they living together? A I don't know, sir.
Q You don't know about his living with this woman, Jenetta?
A No, sir; he had better get somebody else here that lives where he does; I don't know anything about him.
Q You don't know about her living with a man named Taylor Mack?
A No, sir.

WILLIAM COODY, the Applicant, re-called, testified as follows:

Q Have you a certificate of your marriage to this wife?
A No, sir.
Q You say Taylor Mack is still living? A I guess he is.
Q He was sent to the Penitentiary was he? A Yes, sir.
Q He was living when you and your wife married any way?
A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's wife's name cannot be identified thereon.

Q Your wife lived with this man Taylor Mack as a wife? A Yes, sir.
Q Your wife never got a divorce from this man Taylor Mack did she?
A I don't know; he was sent to the Penitentiary.
Q You don't know about her getting a divorce? A No, sir.

COM'R BRECKINRIDGE:--The applicant applies for the enrollment of himself, his wife and one child: The applicant is duly identified on the rolls of 1880 and 1896 as a Cherokee Freedman; he has lived in the Cherokee Nation all his life and he will be listed for enrollment as a Cherokee Freedman.

His wife is identified with him on the roll of 1896, but she is not identified on the roll of 1880. She may be too young to be upon that roll, but neither her father nor mother can be identified on that roll, nor are they identified on the roll of 1896. The applicant is not able to give much information about his wife. It does not appear, therefore, that she is entitled to enrollment of her own right as a Cherokee Freedman, and their marriage, which is stated to have taken place in 1896, would be too late to entitle her to enrollment by intermarriage. It further appears that prior to her present marriage, which in a general way is satisfactorily established by personal testimony as well as by her identification on the roll of 1896, she was married to one Taylor Mack, from whom it does not appear she ever obtained a divorce and who was living at the time the present wife was married and it not known to be dead at this time. This further casts a doubt upon the applicant's wife to enrollment, but inasmuch as she is on the roll of 1896, she will be listed upon a doubtful card, her class being that of a Cherokee Freedman.

But as the legality of the present marriage is not established, doubt is entertained as to the right to enrollment of the child of this marriage, William Coody, Jr., When a proper certificate of the birth is filed with the Commission for this child, said to be now two months old, it will be listed for enrollment as a Cherokee Freedman upon the doubtful card with its mother.

o-o-o-o-o-o-o-o

J.O.Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

William Coody, et al.,--4.

Subscribed and sworn to before me this 15th day of April, 1901.

(Signed) C. R. Breckinridge,

Commissioner.

o-o-o-o-o-o

H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

H M Vance

Subscribed and sworn to before me this 19th day of April, 1904.

Charles H. Sampson

Notary Public.

Cherokee Freedmen D 69.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Jennetta Coody and her minor child, William Coody, Jr., as Cherokee Freedmen.

D E C I S I O N.

The record in this case shows that on April 15, 1901, William Coody appeared before the Commission, at Fort Gibson, Indian Territory, and made personal application for the enrollment of his wife, Jennetta Coody, and his minor child, William Coody, Jr., as Cherokee Freedmen. The application also included William Coody, but he is differently classified and is not embraced in this decision

It does not appear that the said Jennetta Coody, or any of her ancestors were slaves of Cherokee citizens, or free colored persons residing in the Cherokee Nation at the commencement of the rebellion. The name of Jennetta Coody is not found on the 1880 authenticated Cherokee roll.

The evidence further shows that the applicant, William Coody, Jr., is the minor child of Jennetta Coody and William Coody; and the latter is identified on the 1880 authenticated Cherokee roll as an adopted colored.

The evidence further shows that the applicant, William Coody, Jr., has resided in the Cherokee Nation all his life, up to and including the date of the application herein.

It is, therefore, the opinion of this Commission that the application for the enrollment of Jennetta Coody as a Cherokee Freedman should be denied, under the provisions of section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495); and that William Coody, Jr., should be enrolled as a Cherokee Freedman, under the provisions of said section, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this JUL 10 1901

R 1279
32 ~~43578~~

IN RE
THE DEATH OF
William Coody Jr
A CITIZEN OF THE
Cherokee Nation

Chas Breeman
No 1279
Williamsville Ore.

Approved 190

..... Commissioner

DEPARTMENT OF THE INTERIOR.
Commissioner to the Five Civilized Tribes.
FILED
MAR 30 1910
F. G. Wright,
Commissioner.

Department of the Interior,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of William Coody Jr
(Here insert name of deceased)
a citizen of the Freedman Cherokee Nation, who formerly resided at or near
Braggs Okla.
(Here insert name of post office)
~~Ind. Ter.~~, and died on the 3d day of
October 1908

AFFIDAVIT OF RELATIVE

State of Oklahoma
Muskogee County } SS

I, Alex Coody, on oath state that I am 45 years of age and a Freedman citizen, by law, of the Cherokee Nation; that my postoffice address is Braggs, Okla
(Here insert name of postoffice)
~~Ind. Ter.~~; that I am uncle of William Coody Jr
(State relationship: as the father; an uncle; a cousin, etc.) (Here insert name of deceased)
who was a Freedman citizen, by law, of the Cherokee Nation
and that said William Coody Jr died on about the 3d day of
(Here insert name of deceased)
October 1908

WITNESSES TO ~~MARK~~ signature. Alex Coody

(Must Be Two Witnesses) { George Meker

Subscribed and sworn to before me this 28th day of March 1910

My com. expires 12-9-1911. Thea E. Lipscomb
Notary Public.

AFFIDAVIT OF ACQUAINTANCE

State of Oklahoma
Muskogee County } SS

I, J. J. Patrick, on oath state that I am 66 years of age, and a citizen by blood of the Cherokee Nation;
that my postoffice address is Braggs Oklahoma
(Here insert name of postoffice)
~~Ind. Ter.~~;
that I was personally acquainted with William Coody Jr, son of William Coody, deceased
(Here insert name of deceased)
who was a Freedman citizen, ~~by~~ of the Cherokee Nation;
and that said William Coody Jr died on about the 3d day of
(Here insert name of deceased)
October 1908 at Braggs. J. J. Patrick

WITNESSES TO ~~MARK~~: R. Graham

(Must Be Two Witnesses) { J. C. Ellerton, Braggs, Okla
Thea E. Lipscomb, Muskogee, Okla

Subscribed and sworn to before me this 28th day of March 1910

Thea E. Lipscomb
Notary Public.

My Com expires 12/9/1911.

Cher Fr 1280

Cher Fr 1280

HA 273

COM... OF THE INTERIOR,
... THE FIVE CIVILIZED TRIBES.
FILED
MAY 16 1901

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 14th, 1901.

In the matter of the application of Bessie Chapman for the enrollment of herself and one child as Cherokee Freedmen; said Chapman being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name? A Bessie ~~Chapmanx~~ Martin.
Q Who is it you want to apply for? A Myself and one child.
Q How old are you? A I am 25 years old.
Q What is your post office? A Chelsea.
Q In what district do you live? A In Cooweescoowee I guess.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Are you a recognized Freedman of the Cherokee Nation? A No, sir, I don't know.
Q You call yourself a Freedman in the Cherokee Nation don't you? A Yes, sir.
Q Have you been put on the rolls of the Cherokee Nation heretofore? A On the Clifton roll.
Q You drew Cherokee strip money did you? A Yes, sir.
Q Give me the name of your father? A Tobe Martin.
Q Is he living? A No, sir.
Q How long has he been dead? A About four months.
Q Give me the name of your mother? A Ellen McNair.
Q Is she dead? A Yes, sir
Q How long has she been dead? A I don't know, sir.
Q Didd when you were a baby? A yes, sir.
Q Have you been married? A Yes, sir.
Q To whom were you married? A I married a Chapman now.
Q What is his full name? A Gus Chapman.
Q Your husband at the present time is Gus Chapman? A Yes, sir.
Q Well, your name is Bessie Chapman? A yes, sir.
Q Why, didn't you say so? A I used to be Martin.
Q Is your husband a Cherokee Freedman? A No, sir.
Q You make no application for him? A No, sir.
Q When did you marry this husband? A About a year ago, going on two years now.
Q Were you ever married except to him? A Yes, sir.
Q How many times were you married before you married this husband? A Just once.
Q Give me the name of your first husband? A Rufus Bean.
Q Is he living? A No, sir.
Q Was he a Cherokee Freedman? A Yes, sir; said to be.
Q How long has he been dead? A About four years as near as I can remember.
Q Give me the name of your child? A Beulah.
Q Beulah what? A Beulah Bean.
Q Is she a child of your first husband? A Yes, sir.
Q How old is that child? A Eight years old.
Q Is this child living now? A Yes, sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and the name of applicant not found thereon.
The 1896 Census Roll of Freedmen of the Cherokee Nation examined and applicants' names not found thereon.

Q Did this child, Beulah, have any name except Beulah? A Yes, sir; she had Ruble, and Papa enrolled her as Ruble.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:
Page 142, #3531, Bessie Martin, Cooweescoowee District.
Page 142, #3532, Ruben Martin, Cooweescoowee District.

Q Is this child a girl or boy? A It is a girl.

Q You want it called now Beulah? A No, sir, I want it to go by the name my father enrolled it.
Q It is on the roll as Ruben, but Ruben is not its exact name?
A No, sir, I usually call her Beulah.
Q Well, that other name you spoke of, is it Ruble or Ruby?
A Ruby.
Q Well you want the child enrolled as Rubis? A Yes, sir.
Q Well now, it seems that neither you nor your father nor mother are on the roll of 1880, and your husband you say is a state man and none of you are on the roll of 1896; how can you account for your being left off of these rolls? A I don't know, sir.
Q Well, you were too young to know anything about the war and your father and mother are both dead; are there any ~~xxxx~~ ~~xx~~ of the old people here who can tell anything about your mothers rights or your fathers rights? A Yes, sir, my father's right, Jim Alberty.

JIM ALBERTY, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name? A Jim Alberty.
Q How old are you? A 70 years old I guess.
Q What is your post office? A Chouteau.
Q In what district do you live? A Saline.
Q How long have you lived in the Cherokee Nation? A All my life, this 70 years I spoke of.
Q All your days? A Yes, sir.
Q Do you know this applicant here, Bessie Chapman? A I know her people.
Q What was her father's name? A Tobe Martin.
Q And her mother, what was her name? A Ellen Martin, was McNair before she married him.
Q Do you know her to be the daughter of Tobe and Ellen? A Yes, sir.
Q How long have you known this woman? A I known her when she was born, she was born on my place.
Q She is married now is she? A Well, I can't tell that, haven't seen her for a long time.
Q Haven't seen her for how long? A I haven't seen her for several years.
Q Haven't been keeping the run of her? A No, sir.
Q What name does she go by now? A I do not know, sir, I never asked what name she goes by; I haven's ~~xxxxx~~ saw her before until now, seen her this morning, never did ask her her husband's name at all.
Q Well now, this woman's mother, Ellan, was she a Cherokee slave at the beginning of the war? A Yes, sir
Q To whom did she belong? A McNair was her first owner, Jim McNair.
Q ~~Xxxxx~~ Where did he live? A He lived on Grand River, I don't know how far from here.
Q He was a Cherokee citizen was he? A Yes, sir.
Q Lived near you? A Yes, sir.
Q Were you a slave in the Cherokee Nation? A Yes, sir.
Q Who was your master? A John Alberty.
Q How far did you live from Mr. McNair's? A About four or five miles.
Q What became of this woman's mother during the war, where did she go? A I can't tell, don't know.
Q How long has this woman's mother been dead? A Well, she has been dead, I don't know how long, it must have been about 14 or 15 years, as nigh as I can guess.
Q Did you see much of Ellen McNair before she died? A No, sir; much of her how?
Q Meet her in the same neighborhood? A Oh, yes, sir.
Q Did she die in your neighborhood? A Died right at my house; well, she, when they moved from my house, just then she died, she died right across the Creek, about a quarter of a mile.
Q How long has she been living there close to you when she died?
A She didn't live close to me; she lived on my place, she had been living there a year or two, she made a crop there.

Q That was just before she died? A Yes, sir, well her man was making a crop on my place; she died right across the creek.
Q Where did you first see her after the war closed? A Right there
Q Had she lived right there from the time the war closed down to the time of her death? A Yes, sir.
Q When did she first come there? A Well, she come there in '66, the fall.
Q Where did she come from? A Why, she come from North I guess, what they said.
Q What did they say? A Come from North.
Q Do you remember where she had been up North? A No, sir.
Q Did she never tell you anything about her experience up there?
A No, sir, nothing more than that she had been up there.
Q Well now, Tobe Martin, what do you know about him since the war?
A Well, I saw him here about that time.
Q Are you certain about when you saw him as about when you saw his wife, Ellen? A Yes, sir, pretty well.
Q They were not married when the war closed were they? A I don't know.
Q They were married when you first met Ellen? A Yes, sir; I was thinking about the wife he has got now.
Q Wife who has got? A Tobe.
Q Tobe is dead isn't he? A I never heard it; the last time I was up in that way I saw him, that was along about a year ago.
Q He was living then? A Yes, sir.
Q Has it been as long as two years ago? A No, sir, it has not been two years ago, well probably it was two.
Q Maybe as much as two years ago? A It maybe, I ain't positive.
Q But not over two years ago, you don't think? A No, I don't think itis.

BY J. S. DAVENPORT, Cherokee Representative:

Q How many Tobe Martins did you ever know in this country?
A I knowed of two.
Q Well, where did the other one live besides the one you have been telling about? A Lives here at Vinita.
Q Now, you were living on what Creek when Ellen and Tobe came back to your house after the war? A Big Creek.
Q How long had you been living there? A I had been living there, I built that house directly after the war.
Q How long after the war? A Right there, it was not hardly six months.
Q Was it four months? A No, I guess not.
Q Where were you when the war closed? A I was in the army.
Q In what Army A In the Northern army, the 57th colored.
Q Where were you when the war broke out? A I was right here on Pryor creek.
Q To whom did you belong at the time the war broke out?
A John Alberty.
Q You hadn't been sold by John Alberty to a man in the States before the war broke out? A No, sir.
Q You are positive of that? A Yes, sir.
Q You are positive you were here in the Cherokee Nation when the was closed? A Yes, sir.
Q Where were you mustered out? A I wasn't mustered out.
Q How did you get away? A I run off.
Q You were a deserter? A I suppose so, that is the way I got here.
Q You know, Jack, how you got here? A Of course.
Q Now, who was living on Big Creek when you went up there to settle your place? A Ward and Sanders.
Q Tuck Sanders? A Yes, sir.
Q Who were the Cherokees? A Alberty Morris come there.
Q Where was Jim Martin living? A He was not living there.
Q Where was Bill Martin living? A I don't know.
Q Tuck Sanders was living there? A Yes, sir.

Q He will know exactly when you came there and settled your place?
A I reckon he will.
Q Don't you know he will? A I don't know; I don't know what Tuck will know.
Q Are you a recognized Freedman of the Cherokee Nation? A You can judge that, I don't know.
Q You know whether you have been recognized or not? A Recognized which way?
Q Are you on the 1880 roll? A No, and you know I ain't.
Q Are you on the 1896 roll, made by the Cherokee Nation?
A No, sir.
Q Are you on any of the rolls the Cherokees have made?
A I don't know.
Q Jim I want to know how long it has been since you saw Tobe Martin living? A I don't know, I can't keep the run of it; I can't hardly more than tell you the day of the week.
Q Where was he living the last time you saw him? A On Panther Creek.
Q And that has been something like a year or more ago? A I don't know.
Q Really you don't know whether you have seen him since the war do you? A Yes, sir, I do.
Q You don't know how long it has been? A No, sir.
Q You remember 1866 very distinctly? A Yes, sir, people like you told me that was the time.
Q Now what white men told you it was 1866? A I don't know.
Q There was not any people living up there hardly? A No, sir.
Q From Kansas on down here there was not half a dozen houses?
A I don't know.
Q Now, Uncle Jim, when you come back from the war how did you come down to Big creek? A By foot.
Q Walked all the way? A Yes, sir.
Q You came to Vinita at that time didn't you? A There was not no Vinita.
Q Was there a post office? A I don't know.
Q Where did you get your mail? A I didn't get none.
Q Didn't have any post offices? A There might have been post offices, but there is nothing there for me.
Q Do you know whether or not this woman's mother and father, Tobe Martin, are recognized citizens of the Cherokee Nation? A I don't know.
Q Don't you know they were not? A No, sir, I don't know that; there was mighty few recognized citizens of our people.
Q Quite a number are on the 1880 roll? A I don't know.
Q Whom came to your house with this Ellen Martin? A Her husband.
Q Tobe? A Yes, sir.
Q No one else? A Yes, sir.
Q Do you know how old this girl was? A This girl was not born then.
Q How long did she stay there by you? A Something like ~~two years~~
Q And then she died there? A Yes, sir.
Q She came down to your house in 1866? A Yes, sir.
Q And made a crop there? A Yes, sir.
Q Lived there ~~[illegible]~~ about one year? A Yes, sir.
Q And then the mother of this girl died there? A Yes, sir, did.
Q The girl was about a year old wasn't she? A I don't know.
Q She was born? A Yes, sir; she was born there.
Q Before her mother died? A Yes, sir.
Q And she came there just after the war along in 1866? A Yes, sir.
Q And didn't stay there only to make one crop? A Yes, sir.
Q And her mother died while they were making that crop?
A Yes, sir.

BY W. W. HASTINGS, Cherokee representative:

Q You are positive about that? A I am positive that they stayed there at my house.

JERRY RILEY, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name? A Jerry Riley.
Q How old are you? A About 47 or 48.
Q What is your post office? A Chelsea.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know the applicant here, Bessie Chapman? A Yes, sir.
Q What is her husband's name? A Chapman.
Q His given name? A I don't know his first name, we always called him Chapman.
Q What was her name before she married? A Bessie Martin.
Q Is she a daughter of Tober Martin? A Yes, sir.
Q Was she ever married before she married Chapman A Yes, sir.
Q Who was she married to? A Rufus Bean.
Q Bean is dead isn't he? A Yes, sir.
Q Has she got a child of that marriage? A She has got a child, I don't know whether it is Bean's or not.
Q How many children has she got? A Only one as I know of.

COM'R BRECKINRIDGE:--The applicant applies for the enrollment of herself and one child, the child being by a former marriage: The applicant claims to have lived in the Cherokee Nation all her life. A She is identified on the Kerns-Clifton roll, but she is not identified on the roll of 1880 or upon the roll of 1896 Her mother appears to have died before 1880 and her father is not identified upon any roll. The testimony in this case is of a conflicting character and for its further consideration the applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card. Her change of name arising from marriage is established in a satisfactory manner. The child which she desires ~~to~~ enrolled as Ruby Bean is identified on the Kerns-Clifton roll and not upon the roll of 1896. The child is living and will be listed for enrollment as a Cherokee Freedman upon a doubtful card.

SUPPLEMENTAL TESTIMONY TO THE ABOVE APPLICATION:

BESSIE CHAPMAN, the Applicant, re-called, testified as follows:

Q How old was your husband, Rufus Bean, when he died? A I don't know.
Q Well, about how old was he much older than you? A Yes, sir, away older then me.
Q Considerably older than you? A Yes, sir.
Q Nancy Bryant, do you know whether that was in his family?
A Yes, sir.
Q What was the name of Rufus Bena's mother? A Nancy Bryant.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and the name of applicant's former husband found thereon, page 619, #168, Rufus Bean, Saline District.

Q Were you ever married before you married Rufus Bean? A No, sir.
Q How many times had he been married before he married you?
A Once.
Q Was his first wife dead when he married you?
A No, sir.
Q Had he ever been ~~divorced~~ divorced from her? A I don't know, sir; he said he had, I don't know.
Q You don't know about that? A No, sir, I don't.

---oooOOOooo---

Bessie Chapman, et al. vs.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this May 15th, 1901.

C. R. Breckinridge

Commissioner.

VB. F. S. 273.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 14 1901
ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 14, 101

Post Office Chelsea, I. T.

District Coo.

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

1-2. Name of wife Bissie Chatfourgah, Age 25.

Owner's name ..... Citizenship .....

Year K. C. Page 142 No. 3531 District Coo.

Parents:

Father Sobe Martin d. Citizenship Col.

Mother Ellen McDaniel d. Citizenship "

Names of Children:

2-3. Rubye Bean Year K. C. Page 142 No. 3532 Dist. Coo. Sgm.

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by Bissie Martin Stenographer Rosson.

Not on K. C. Roll as Bissie Martin

" 2 " " " " " Reuben "

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss

In the matter of the application of Bessie Chapman for enrollment as a Cherokee Freedman.

No. F. D. 273

Henry Pack, of lawful age, being duly sworn on oath states that on the 30 day of September, A. D., 1901, he registered to Bessie Chapman whose postoffice is Chelsea Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto attaches the receipt of the Postmaster at Fort Gibson Indian Territory; and that on the 20 day of September, 1901, he received the return card which is hereto attached, signed by the said Bessie Chapman, showing that he had received said notice.

Henry Pack

Subscribed and sworn to before me on this the 20 day of Sept. A. D. 1901.

C Starr
Notary Public.

Ie

H.D.273.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 21 1901

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF The application of Bessie Chapman for enrollment as a Cherokee Freedman:

Case No. F. D. 273

To Bessie Chapman Chelsea I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita, Indian Territory.* Indian Territory, on the following dates, to-wit: Oct. 4th A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 13th day of Sept., 1901.

W. W. Hastings

J. A. Davenport

Attorneys for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 12 1901
ACTING CHAIRMAN.

Supl.C.F.-D.#273.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 4th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Bessie Chapman as a Cherokee freedman, introduced on part of the Cherokee Nation:

APPEARSNACES:
Mr. W. W. Hastings, of counsel for Cherokee Nation.

Proof of service made, applicant fails to appear after being called.

JOHN ~~Corss~~ Cross, being duly sworn by Commissioner Needles, testified as follows, on part of Cherokee Nation:

MR. HASTINGS: What is your name? A John ~~Corss~~. Cross

Q What is your age, Mr. Cross? A 63.
Q What is your post office A Mapleton, Burton County, Kansas.
Q How long have you lived there? A I have lived there since '62.
Q Did you know a colored man by the name of Tobe Martin?
A Yes, sir.
Q Did you know his wife's name? A Yes, sir; his wife's name was Ellen.
Q Did they have any family? A Yes, sir.
Q Do you remember the names of any of them A I don't remember the names of any.
Q When did you fi rst know Tobe Martin? A Well, I can't tell exactly the date, but then along about after '62 sometime on until he left there.
Q Well, about how long now did you know him? A Sometime along latter part of '60's until 1884.
Q Did he live aroundthere continuously that length of time?
A I think he did, but his wife, first wife, died before that and he married again.
Q Do you know whether he owned any property there or not? A Yes.
Q What? A He owned a piece of land there on the river. I don't k know just how many acres.
Q Now, why do you remember that he lived there until '84?
A I had a note from him, the way I know that.
Q Do you know whether he calimed to have ever belonged down in this country or not, do you know anything about that?
A No, sir.
Q You don't know where he came from when he came up there? A He came from the Nation I believe, come with other colored people.
Q You don't k now the applicant, Bessie Chapman? A No.
Q How far did they live from you, from Mapleton? A About a mile and a half.
Q What direction? A Southwest.

COM'R NEEDLES: Did you know you say Ellen Martin? A Yes, sir.
Q She was the wife of Tobe? A Yes, sir.
Q Do you know where she died? A She died there.
Q Where, in the State of Kansas? A Yes, sir, mile and a half from Mapleton.
Q About what year was that? A I could not tell you just what year it was.
Q Well, about what year? A Oh, it must have been about '79 or '80, I should judge.
Q Now, how long did I understnand you to say that you had known her? A I don't know from the latter part of the '60's until that time.
Q She lived there from the latter part of the '60's until the date of her death in Kansas? A Yes, sir.
Q Wouldn't latter part of '60's would that inclusm 1866; do you know

where she li ved in 1866? A I suppose she lived there.
Q With her husband Tobe? A Yes, sir.
Q Dd you know any of her children's names? A No, sir.
Q You don't know then the appl9cant, Bessie Chapman?
A No, I don't know.

THOMAS HAMILTON, being duly sworn by Commissioner Needles, testified as follows on part of aCherokee Nation.
MR. HASTINGS: What is your name? A Thomas Hamilton.
Q what is your a e? A 73/
Q Where do you live? A Mapleton, Kansas.
Q Did you know a colored man by the name of Tobe Martin?
A I did.
Q Did you know his wife? A I did.
Q What was her name? A I forget; Ellen I think it was, I forgot what her name was.
Q When did you first learn to know Tobe? A About '62.
Q Where did you first see him? A I first saw him, I think the first time I seen him was at Fort Scott.
Q Do you know where he come from? A Well, they all claimed that they come from the Nation; I belonged to the Sixth Kansas the first trips we come in here and they come up with me.
Q Did you know them after the war? A Yes, sir.
Q How long after the war did you know them? A I don't know how long it was quite a long time, it was a long time.
Q Lived there near Mapleton? A I should think about two miles and a half from town.
Q Own a farm there? A Owned a littlepiece of land, six or seven acres.
Q Do you know whether Ellen is alive or not?
A No, sir, she diedup there.
Q About how long did you know Tobe Martin up there, I mean by that about what time did he live there, your best judgmentM A I should think he left up there about some 15 or 16 years or maybe more, I would not be positive.
Q Do you know whether they had children or not?
A Yes, sir, they had family of children.
Q You don't remember their namez? A No, sir, I do not remember their names, I expect I did know all the names but I forgot.
Q You don't know the applicant, Bessie Chapman? A I do not, one of the girls was married to a man up there by the name of Shields but I forget her name.
Q But one of them married Shields? A Yes, sir, one of the girls married Ed Shields.
Q Do you know where she married? A Married there at Mapleton, she died.
COM'R NEEDLES: Do you know, Mr. Hamilton, that Tobe Martin and Ellen Martin was the father and mother of Bessie Chapman? A I do not.
Q I understand you to say that Tobe and Ellen went when they went from the Cherokee Nation? A Yes, sir.
Q That was during the war? A That was in '62.
Q You were in the in the United states service as a soldier?
A Yes, sir, Sixth Kansas Cavlary.
Q Do you know whether they ever returned to the Cherokee Nation before that or not? A I don't think they did.
Q They lived there at Mapleton then from that time until both died? A I don't know whether he died at all or not.
Q You know she died? A Yes, sir.
Q And she lived there from the time she went up there with you until her death? A Yes, sir.
Q Were they married when they went up there or were they married sinod? A I think they were married when they went, they lived together.
Q You don't know who they belonged to before the war, or do you?

A No, sir, I don't; I don't know nothing about that only they used to say they went by their master's name.
Q Do you recollect what they said was their master's name?
A No, sir.
Q You know they went up there? A They went and took some things from their master's.
Q Did you ever know a colored man named Jim Alberty?
A No, sir, seems to me I heard of the name, but I don't know him.
Q Do you know what this Ellen's name was before she married Tobe?
A I do not.
MR. HASTINGS: You are certain that this Ellen, the wife of the Tobe you speak of, died near Mapleton? A Yes, sir, died with Consumption if I remember right.
Q Now what became of Tobe after that; did he remain up there in the country or did he leave? A Well, sir, it seems to me that he remained sometime but not very long, I would not swear positively.
Q He is not up there now is he? A No, sir, and has not been for a long time.
Q You don't know where he went to? A No, sir.
COMIR NEEDLES: Do you recollect or Tobe Martin and Ellen moving from Mapleton, from Kansas, to the Cherokee Nation and then going back? A I do not.
Q Well, if they had of moved away from there you would recollect, having known them? A Yes, sir, I seen them pretty nigh every week anyway.

F. G. MYERS, being sworn by Commissioner Needles, testi fied as follows: On part of Cherokee Nation.
Mr. HASTINGS: What is your name? A F. G. Myers.
Q What is your age, Mr. Myers? A 64 yearsold.
Q Where do you live? A At Mapleton, or near Mapleton.
Q When did you first commence living at Mapleton or near there?
A In '66, December 5th.
Q Do you know a colored man by the name of Tobe Martin? A Yes, sir, I once knowed the man.
Q Did he have a wife? A Yes, sir.
Q Did you know his wife's name? A Yes, sir
Q What was her name? A Name was Ellen.
Q Where did you know them, Mr. Myers? A I first got acquainted with them on my place.
Q They lived on your place? A Yes they lived on my place.
Q When? A Well, it was near about '63 and '4 I think thzat Tobe and the Martin family was all there on my place, I think about '63 or '4a. Yes, in '64, it was.
Q How long did you continue to know Tobe Martin and his wife?
A Well, positively up until '74.
Q Positively until then? A Yes, sir.
Q Well, did you leave that country temporarily at that time?
A Yes, sir.
Q Well, do you know that they were living around Mapleton at that time? A Yes, sir.
Q Did they have some children? A Yes, sir.
Q Do you remember any of their names? A No, sir, I do not. The was small children, good big girls two of them was, but I could not call their names.
Q When did you come back to Mapleton I believe you stated you were temporarily absent? A In the fall of '77.
Q Did you ever know this family after that? A Nol sir, I don't; I think that Ellen died in the '70's, I don't think I ever saw her after that to know her positively.
Q Do you know what became of Tobe? A No, sir.
Q Did you know from any conversation with him as to where he had been before the war? A Yes, sir.
Q Where did he say he was from? A From the Cherokee Nation belonged to Joe Martin.

COM'R NEEDLES: Mr. Myers, what is your occupation? A Farmer and stockraiser at this time.
Q You say that you knew Tobe Martin and Ellen continuously from 1863 until '74? A Yes, until Ellen died, I don't recollect what time she did die..
Q That was in the State of Kansas? A Yes, si r, I knowed them off and on up until then.
Q Did you ever know of them movi ng to the Cherokee Nation within that time? A No, sir, not that I know of.
Q Do you know who Ellen claimed to have been her owner? A No, sir, I don't recollect who her owner should have been.
Q You don't know the applicant, Bessie? A No, sir.
MR. HASTINGS: Do you know whether Tobe and his wife owned any property, lan, up there or not? A Well, they lived on a pix piece of land and it was always called their, it was considered theirs.

Thomas Hamilton, recalled, further testified:
COM'R NEEDLES: Mr. Hamilton, what is your occupation?
A Farmer now.

D. J. HESSONG, being duly sworn by Commissioner Needles, testified as follows: On part of Cherokee Nation:
MR. HASTINGS: What is your name? A D. J. Hessong.
Q What is your post office? A Mapleton, Kansas.
Q How long have you lived in about Mapleton? A Right close to 44 years, little bit over 44.
Q Did you know a colored man by the name of Tobe Martin?
A I did.
Q When did you first lean to know him? A Right along about war times, when the darkies all moved in there.
Q Did you know him after the war? A Yes, sir.
Q Well, how long did you know him after the war?
A Oh, I don8t know how long, quite a number of years; he used to live right there on the Fort Scott road and I passed his place very often, every time I go to Scott passed his place; it was years; long enough to raise good orchard and such things as that.
Q Long enough to raise a good orchard? A Yes, sir.
Q wel , you knew him 15 or 20 years, something like that?
A Yes, sir, I would not say the number of years.
Q Did he have a wife? A Yes, sir.
Q Family? A Yes, sir.
Q Did you know his wife's name? A I might have known her name then but I have fogot it now.
Q Did he own a place there? A Yes, sir.
Q Do you know whether his wife died there or not?
A Yes, sir, she diedthere.
Q You don't know this applicant, Bessie? A No, not that I know of ; not to distinguish her, knew that they had a family of children, she was small then.
COM'R NEEDLES: Do you know whether Tobe Martin ever married again after his wife's death? A I think he did marry, I ain't positive as to that.
Q Do you know where Tobe is now? A No, sir.
Q Did he leave your neighborhood? A Yes, sir, he lived there.
Q That was after his wife died? A Yes, sir.
Q What is your occupation? A Run a Livery Stable and Hotel now
Q I believe you said you didn't know whether he married again or not? A Not for certain, but I think he did.
Q Did you state what year Ellen died? A No, I don't know what year she died.

JOHN CROSS, recalled, further testified:
COM'R NEEDLES: Do you know whether Tobe Martin married again after the death of his wife, Ellen? A Yes, si r, he married again.

Q Do you know who he married? A No, sir. I don't recollect her name she was a widow woman.
Q Married in Kansas? A Yes, sir.
Q Do you know whether he had any children by that wife or not?
A No, I don,t.
Q Do you know whether that wife is living or not?
A No, sir
Q You don't know where Tobe is now? A No, sir, I heard he was dead.
Q I bel ieve you said you didn't know the name of any of his children by his first wife? A No, sir, I don't recollect the names of any of them.

J. W. BAINUM, being sworn by Commissioner Needles, testi - fied as follows; on behalf of Cherokee Nation:
MR. HASTINGS: What is your name? A J. W. Bainum,Mapleton,Kas
Q Do you know a colored man by the name of Tobe Martin?
A Yes, sir.
Q what is your occupation? A I don't do much of anything now.
Q You have been i n the Mercantile business there a long time?
A Yes, sir.
Q Something like 20 years.
Q Did Tobe Martin have a wife? A Yes, sir.
Q Do you remember her name? A I think it was Ellen.
Q When did you first learn to know Tobe Martin? A Oh sometime after '64, after November '64, on within a year or such a matter, I can't tell when.
Q Up until about when? A Oh, good while ago.
Q Did you know him o5 or 20 years? A I knew hi m up until '80 I think; let me see, at that time I lived on the farm some little distance from there, way from Mapleton and though I seen him frequently I had no intimate acquaince with him.
Q Do you know whether Ellen died up there or not? A I don't know.
Q Do you know whether Tobe own ed a farm up there? A He did.
Q Do you know whether he had any children or not? A Yes, he had quite a family, but I don't know how many. I did know the names of the older ones, but I am not certain.
Q You don,t recollect this Bessie? A Well, if I knew her at all she was bery small, I don't know her at all.
Q Do you know where Tobe was from originally? A Not in any other way then by common runor, he was understood to be from the Cherokee nation; we had what was called Cherokee Nation darkes and Missixouri darkes; there was always distinction between them.
COM'R NEEDLES: You have been in the Mercantile business?
A Yes, sir.
Q These people trade with you? A Not at the time I knew them; they probably did trade with me after I went into the store business but I have no definite recollection.
Q Did you know about the death of Ellen? A No, sir; Oh, I probably heard of it, but I don't know nothing particular.
Q But you knew that Tobe Martin was there until many years after the war? A Yes, sir.
Q You don't know whether he ever marri ed again? A No, sir, I don't knot nothing about that.

Com'r Needles: This testimony will be filed in the case.

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Supl.C.F.D.#273 .--6.

COMMISSION TO THE FIVE CIVILIZED TRIBES
OCT 15 1901
RECEIVED

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 9th, 1901.

Commissioner.

Cherokee Freedmen D 273.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Bessie Chapman for the enrollment of herself and minor child, Ruby Bean, as Cherokee Freedmen:

D E C I S I O N

The record in this case shows that on May 14, 1901, Bessie Chapman appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and minor child, Ruby Bean, as Cherokee Freedmen. Further proceedings in the matter of said application were had at Vinita, Indian Territory, October 4, 1901.

The evidence shows that the said Bessie Chapman was twenty-five years of age at the date of this application; that she is the daughter of Tobe Martin and wife, Ellen Martin.

The evidence further shows that the said Tobe Martin and wife, Ellen Martin, were the slaves of Cherokee citizens at the commencement of the rebellion; that they went to Kansas during said rebellion and did not return to the Cherokee Nation until after the year 1874. The evidence further shows that Ruby Bean is the daughter of Bessie Chapman by her former husband, Rufus Bean, who is identified on the 1880 authenticated Cherokee roll as an adopted colored citizen. The said Bessie Chapman is not identified on said roll.

The evidence further shows that the applicant, Ruby Bean, has resided in the Cherokee Nation all her life, up to and including the date of the application herein.

It is, therefore, the opinion of this Commission that the application for the enrollment of Bessie Chapman as a Cherokee Freedman should be denied, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495); and it is further the opinion of this Commission that Ruby Bean should be enrolled as a Cherokee Freedman, in accordance with the provisions of said Section Twenty-one of the Act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

T. R. Buckingham
Commissioner.

W E Stanley
Commissioner.

Muskogee, Indian Territory,

this JUL 30 [illegible]

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Bessie Chapman,
Chelsea, I.T
Cherokee F-D-273
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee Freedmen
D-273.

Muskogee, Indian Territory, July 17, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 10, 1903, granting the application of Bessie Chapman for the enrollment of her minor child, Ruby Bean, and rejecting her application for the enrollment of herself, as Cherokee Freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

T. B. Needles

Commissioner in Charge.

Enc. H-25.

COPY.

Cherokee Freedmen
D-273.

Muskogee, Indian Territory, August 24, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application of Bessie Chapman for the enrollment of herself and her minor child, Ruby Bean, as Cherokee Freedmen, together with the Commission's decision, dated July 10, 1903, granting her application for the enrollment of Ruby Bean, and rejecting her application for the enrollment of herself.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-130.

COPY

Cherokee Freedmen
D-273.

Muskogee, Indian Territory, August 24, 1903.

Bessie Chapman,

Chelsea, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself and your minor child, Ruby Bean, as Cherokee Freedmen, together with a copy of the Commission's decision, dated July 10, 1903, granting your application for the enrollment of your minor child, Ruby Bean, and rejecting your application for the enrollment of yourself.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. B-129.

Register.

Refer in reply to the following:
Land. 55261/1903.

Department of the Interior,
Office of Indian Affairs,
Washington, Feb. 19, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report from the Commission to the Five Civilized Tribes, dated August 24, 1903, transmitting the record relative to the application of Bessie Chapman for the enrollment of herself and her minor child, Ruby Bean, as Cherokee freedmen.

The evidence shows that Bessie Chapman is the daughter of Tobe Martin and Ella Martin, his wife. Tobe and Ella Martin were the slaves of Cherokee citizens at the commencement of the war. They went to the State of Kansas during the war and did not return to the Cherokee Nation until about 1874.

Ruby Bean is the daughter of Bessie Chapman by her former husband, Rufus Bean, who is identified on the 1880 authenticated roll as an adopted colored citizen. Ruby Bean is only about eleven years of age and was therefore born since the 1880 roll was made.

The Commission held that Bessie Chapman should not be enrolled as a Cherokee freedman and that Ruby Bean is entitled to enrollment as such. Bessie Chapman is not entitled to enrollment because her parents did not return to the Cherokee Nation before

February 11, 1867.

If Ruby Bean is entitled to enrollment at all, it is because of the adoption of her father by the Cherokee Nation. From the record it does not appear that her father was adopted because of having returned to the Cherokee Nation within the time limit fixed by the treaty of 1866, but inasmuch as his name appears on the 1880 roll as an "adopted colored citizen", and as Ruby Bean was born subsequent to the date the roll was made, it is recommended that she be enrolled as a citizen of the Cherokee Nation of African descent.

Very respectfully,

A. C. Tonner

Acting Commissioner.

GAW-H.

D.C. 11392-1904.

JP
FHE
LRS

DEPARTMENT OF THE INTERIOR,

ITD 1476-1904. WASHINGTON. April 7, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

August 24, 1903, you submitted the case involving the application of Bessie Chapman for the enrollment of herself and her minor child, Ruby Bean, as Cherokee freedmen, having on July 10, 1903, rendered your decision in the case, rejecting the application as to Bessie Chapman, and holding that Ruby Bean is entitled to enrollment.

Transmitting the case February 19, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be concurred in. A copy of his letter is inclosed.

Finding no reason to disturb your decision, it is hereby affirmed.

Respectfully,

Thos Ryan

Acting Secretary.

1 inclosure.

Cher Fr 1281

See Cher Fr 1282 thru 1305 and D 322-436

Cher Fr 1281

DEPARTMENT OF [illegible]
[illegible]MISSION TO [illegible]
FILE

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it? (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled as a Fredcman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there. (Referring to paper.)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census roll of citizens of the Cherokee Nation examined and applicant's name notfound thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kerns-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicant:

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to, what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton roll? A I guess I am on it, you will have to look to see.

BY W. W. HASTINGS, Cherokee Representative:

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and comex on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but my and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.

Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel again.
Q About how long? A I guess it was about nearly, over six months, a year; we stayed there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q What children did you had at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Who did you work for at Fort Gibson? A I washed for the soldiers.
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somwheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A stayed until along in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, right across the line.
Q You didn't go into the state of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
A Yes, sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A Yes, sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? A Yes, sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A I don't know, he hired us to work.
Q Have you ever lived in Kansas since the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timber Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket?
A Yes, sir.
Q What direction is that, is it on the Coowescoowee side?
A Yes, sir.
Q Towards the sunset from Bluejacket? A Yes, sir.
Q Did your sister go with you all these round you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You stayed about three or four years at the Larkins place?
A Yes, sir.
Q Did you have any neighbors around there? A There was no neighbors but one family.

Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir.
Q Were you living there when the railroad come there? A No, sir, wasn't no railroad,—living there long before the railroad was built.
Q You were living there when the railroad was built? A Yes, sir, there wasn't no houses when the railroad come through.
Q were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now, Aunty, how far from the railroad trace, the M. K. & T., were you living? A I don't know, we could ~~kaw~~ not hear the traint.
Q On the south of the tract? A That was on this side of the tract, over in Cooweescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Julia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? (No response.)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by this name name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash , he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I first known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll, or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir; Yes, sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come back in, along, in the Summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.

Q About what season of the year was it you got back? A Along in the summer, Spring like.
Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called there, that winter and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q Do you know ~~what~~ her children, know what their names are all of them, or not? A No, sir; I don't know; I never seen any of the children then, I didn't know anybody but her and she was up there, up ther drawing Government rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. ~~Smithxxx~~ Chambers? A No, sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the Spring or summer? A Yes, sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen herm there.
Q You are positive you saw her? A Yes, sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A Yes, sir, I know that to be fact.
Q You come here you saw in the spring or summer of 1865?
A Yes, sir.
Q And say it was the next winter you saw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I stayed there all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A Yes, sir.
Q You remember seeing her? A Yes, sir.
Q Well when did you next see her? A I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recall
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere but, I heard of her living up by William Tucker's.
Q You never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several things.
Q How many times? A Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A Never done anything with me.
Q Did they try you? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, turned me alooose and let me go home.
Q Never was convicted? A No, sir.

Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lots others.
Q I mean of her family? A IF I did I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee NatioN? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH.

Q Do you know Eliza Gaines? A Yes, sir.
Q Sometimes called Nash? A I know her.
Q How long have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q Who was that? A Mr Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was that that time? A (No response.)
When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you know any of her family, any of her children?
A No, sir, I could not tell anything about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and if I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see? A Lydia that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.

BY W. W. HASTINGS:
Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the old bridge.
Q Where was this woman living when the war come up? A At Stover's
Q How far was that from where you were living? A A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there washing, I don't know where she was living.
Q How do you happen to remember seeing her? A I stopped there where she was and talked with her.

Q Did you see her there just once? A The next ~~im~~ time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.
Q Where is that? A I don't know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tucker's.
Q On Cabin Creek? A Yes, sir.Q
Q When was that you saw her there? A I don't know, it may have been a year or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from where she lived on Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Bluejacket.
Q Jim, were you ever tried for anything by the Courts? A No, sir
Q Never was arrested? A No, sir, not by Courts, I was not.
Q By Marshalls? A No, sir, I used to be a Mar shall myself, I never was arrested for any crime or any kind, never was.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll or any rolls now in the possession of this Commission except the Kerns-Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commissi on. The final decision of the Commission will be made known to the applicant at her post office address by due course of mai l. If at any time she desires to introduce any additional testimony the same will be received.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

C. R. Needles

Commissioner.

7 D 220

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 9 1901
ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Bluejacket I.T.

District Coo

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife Eliza Gaines Age 61

Owner's name Jas. Stover Citizenship .....

Year R. C. Page 161 No. 3968 District Coo

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

Names of Children: Lowbtful

3. ..... Year ..... Page ..... No. ..... Dist. .....

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by No. 1 Stenographer J. H. Rosson

Withered Mullatto. H. J. J. J. J. J.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10TH DAY OF JULY, 1901.

T. O. Lowman,
Justice of the Peace.

(Signed)

Subpoena issued and returned.

T. O. Lowman,
Justice of the Peace.

(Signed)

STATEMENT OF THE CASE BY THE JUSTICE OF THE PEACE.

The defendant has been tried on a charge of larceny, the charge being that he did on the 9th day of July, 1901, in Bedford County, Virginia, feloniously steal, take and carry away one bay mare, the property of one Jerry Mann, with the intent to deprive the said owner of the said property and to convert the same to his own use and benefit, and to deprive the said owner of the said property and to convert the said property to his own use and benefit, and to deprive the said owner of the said property and to convert the said property to his own use and benefit, and to deprive the said owner of the said property and to convert the said property

To be filed in the case of Eliza Gaines, F.-D.#220.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes,sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q what are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo.
Q How old is Leo? A 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe? A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No response.)
Q Kinda half way? A Yes, sir, just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes, sirQ. Is your name on the roll of 1880? A No, sir.
Q Is it on the Kerns-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of mar iage? A Yes, sir.
Q Whom can you prove your marriage by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Tompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Di you see him marry them? A Yes, sir.
Q Was Bluejacket a minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as mand and wife ever since their marriage. A yes, sir.
Q Is Bell Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes three.
Q Born to them while they were living together as man and wife? A yes, sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, re-called, testified as follows: EXAMINATION BY MR. SMITH, of the Firm of Smith & Mellette, Attorneys for Applicants:

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.

Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kerns-Clifton roll? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married? A I was married a out three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You had heard the statement of your sister, Eliza and sister, Jane; did you go the rounds with them? A Yes, sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where ? A I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twnety miles.
Q How long did you work up there? A I wokred up there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage? A I worked out a good deal of the time, worked at Vinita, some, I lived with my mother.
Q What was your mother's name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:
Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist.

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kerns-Clifton Pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the Counsels in this case, the record in the case of Eliza Gaines, D.#220,

is referred to and made part of the record in this case. The names of Berr Thompson and his three children, as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being duly sworn as stenographer to the Commission to the Five Civilized Tribes, states that the above and foregoing is a true and complete copy of the original transcript of the testimony and proceedings in the case of Berry Thompson, et al; said original transcript having been made by me as stenographer.

J O Rosson

Subscribed and sworn to before me this 13th day of May, 1901.

C R Breckinridge
Commissioner.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Eliza Gains for enrollment as a Freedwoman of the Cherokee Nation, one copy of the original testimony of May 9th, 1901, one copy of the original testimony from the case of Berry Thompson ~~xxx~~, May 9th, 1901, which testimony has been made a part of the record in the case of the applicant.

Mellott & Smith
Attorney for Applicant.

Cherokee #D220.

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F. D. 220

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the

.....day of .....A. D. 190....

Given under my hand this..... .....

day of.....A. D. 190....

.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the 9 day of Feb, 1901.

Mellette & Jones

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... A. D. 190....

.....

Subscribed and sworn to before me this .....

.....

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
10 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Eliza Gaines,
for enrollment as Cherokee Freedmen:
Case No. F. D. 220.

To Eliza Gaines or to Mellette & Smith, her attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, on Oct. 12th, 1901, at 8 o'clock A. M., or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this October 9, 1901.

L B Bell

W. W. Hastings

J. S. Davenport

Attorneys for the Cherokee Nation.

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JD. 220

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 29 1901

Acting Commissioner

Supl.C.F.-D #20. R

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know. I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
Q When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~improx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, Sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know wheteryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time. I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When,if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show i t was the same Eliza Gaines; do you know any of their chi ldren?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles w st of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Know~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spri ng of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behald of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldi er at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t notheing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time they got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directly about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there; in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

---oooOOOooo---

J. C. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J C Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

Arthur C. Cronkhite, being first duly sworn, states that he is the Commissioner to the Commission to the civilian employee in the above entitled case, and that the statements and allegations contained in the above and foregoing transcript of his testimony are true and complete to the best of his knowledge and belief.

Subscribed and sworn to before me this 20th day of May, 1953.

Notary Public

X6220

F. D-220.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee freedman.

SUPPLEMENTAL TO D-220.

APPEARANCES:
Mellette & Smith for applicant.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 28th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,)	
	Eliza Stover,)	
	Jane Stover,)	PETITION FOR CITIZENSHIP.
	Berry Stover,)	
	Lydia Stover,)	
	Angelina Stover,)	J. M. Bryan,
	Mary Stover,)	Atty for Claimant.
	vs)	
	Cherokee Nation.)	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. Term, Feb. 3rd, 1882.
Submitted by the Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this the 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being read and duly considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their Claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex. Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and

because the same is not properly authenticated and proven, and because a copy of said judgment is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged record in the manner and form sought to be used in this case.

W. W. HASTINGS, being first duly sworn, testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be written by the same person? A I take them all tobe signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well It takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? A Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of those doubtful cases, not only Cherokee but colored.
Q How many of those books which show any judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward Nash, D-230, Carrie Harris et al, D-231, Ella Humes, D-232, Edward Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 29th day of May, 1902.

Notary Public.

AUG 17 1962
COMMISSION
ACTING CHAIRMAN

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:
The applicant moves the Commission to take the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Eliza Gains, D 220;

By W. W. Hastings:
Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:
The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory

Mr. Smith:
The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Eliza Gaines et al. for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines----------Cherokee Freedmen D 220,
Jane Webb----------Cherokee Freedmen D 221,
Mary Mabry et al.----------Cherokee Freedmen D 222,
Berry Thompson et al.----------Cherokee Freedmen D 223,
Julia Nash----------Cherokee Freedmen D 224,
Georgia Jones et al.----------Cherokee Freedmen D 225,
John H. Nash et al.----------Cherokee Freedmen D 226,
Malinda Johnson et al.----------Cherokee Freedmen D 227,
Eliza Grooms et al.----------Cherokee Freedmen D 228,
Berry Nash----------Cherokee Freedmen D 229,
Edward Nash----------Cherokee Freedmen D 230,
Carrie Harris et al.----------Cherokee Freedmen D 231,
Ella Humes----------Cherokee Freedmen D 232,
Aaron Martin----------Cherokee Freedmen D 235,
Michael Martin----------Cherokee Freedmen D 236,
George Martin et al.----------Cherokee Freedmen D 237,
Joshua Martin----------Cherokee Freedmen D 238,
Edward Brown et al.----------Cherokee Freedmen D 247,
Israel Martin et al.----------Cherokee Freedmen D 307,
Nellie Brown et al.----------Cherokee Freedmen D 319,
Harriett Tucker et al.----------Cherokee Freedmen D 697,
Lydia Carter----------Cherokee Freedmen D 716,
Allie McElroy et al.----------Cherokee Freedmen D 717,
Robert Harper----------Cherokee Freedmen D 718,
Jordon Harper----------Cherokee Freedmen D 721.

D E C I S I O N

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb, for herself; by Eliza Gaines, for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Leo and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lo tie, Lizzie, Belle, Eva, Annie,

Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were filed with the Commission showing the birth of George and Julia Johnson; by Eliza Grooms, for herself and minor children, Martha, Dona, Peter W., Leuretha and Ennis Grooms; by Berry Nash, for himself; by Edward Nash, for himself; by Carrie Harris, for herself; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Humes, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lottie Martin; by Nellie Brown, for herself and minor children, Roxie, Moses, Jennie, William and Michael Brown; by Harriett Tucker, for herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah M. Tucker; by Lydia Carter, for herself; by Allie McElroy, for herself and minor child, Etta Taylor; by Robert Harper, for himself; and by Jordon Harper, for himself.

The evidence shows that Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein, and that all the other applicants in these several cases have been born since 1866 and, with the exce tion of Ella Humes and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Humes is the daughter of Rosa Mango, sister of Eliza Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rosa Mango was the slave of a Cherokee citizen at the commencement of the rebellion and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin is duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1902; that the applicant, Eliza Grooms, died in October, 1901; and that the applicant, Ennis Grooms, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902 (32 Stats., 716), provides:

> "The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annis Grooms, as Cherokee Freedmen, be, and the same are hereby, dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

Commissioner.

W E Stanley
Commissioner.

Muskogee, Indian Territory,

this SEP [illegible]

FILED
SEP 1903
COMMISSION TO FIVE TRIBES.

1281

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

V inita I. T. September 23rd 1903.

In the matter of the application of Eliza Gaines et al. for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee	Freedman	D	220,
Jane Webb	"	"	D	221,
Mary Mabry et al.	"	"	D	222,
Berry Thompson et al .	"	"	D	223,
Julia Nash.	"	"	D	224,
Georgia Jones et al	"	"	D	225,
John H. Nash et al.	"	"	D	226,
Malinda Johnson et al.	"	"	D	227,
Eliza Greems et al.	"	"	D	228,
Berry Nash.	"	"	D	229,
EdwardNash	"	"	D	230,
Carrie Harris et al.	"	"	D	231,
Ella Humes	"	"	D	232,
Aaron Martin	"	"	D	235,
Michael Martin	"	"	D	236,
George Martin et al	"	"	D	237,
Joshua Martin	"	"	D	238,
Edward Brown et al	"	"	D	247,
Israel Martin et al	"	"	D	307,
Nellie Brown et al.	"	"	D	319,
Harriett Tucker et al.	"	"	D	697,
Lydia Carter	"	"	D	716,
Allie McElroy et al,	"	"	D	717,
Robert Harper	"	"	D	718,
Jordon Harper	"	"	D	721,

PROTEST.

Comes now the Cherokee Nation and protests against the decision of the Commission rendered in this case on September 5th 1903 and asks that same with the record be forwarded to the Honorable Secretary of the Interior for review.

Respectfully,

Attorneys for the Cherokee nation, Cherokee Freedmen Enrollment.

J. C. S.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of ELIZA GAINES, ET AL., for enrollment as Cherokee Freedmen, consolidating the applications of:

Eliza Gaines, ---------- Cherokee Freedman D 220.
Jane Webb,---------- Cherokee Freedman D 221,
Mary Mabry, et al.,---------- Cherokee Freedmen D 222,
Berry Thompson, et al., ------Cherokee Freedmen D 223,
Julia Nash,---------- Cherokee Freedman D 224,
Georgia Jones, et al., -------Cherokee Freedmen D 225,
John H. Nash, et al.,-------- Cherokee Freedmen D 226,
Malinda Johnson, et al.,----- Cherokee Freedmen D 227,
Eliza Grooms, et al.,-------- Cherokee Freedmen D 228,
Berry Nash,----------Cherokee Freedman D 229,
Edward Nash,---------- Cherokee Freedman D 230,
Carrie Harris, et al.,------- Cherokee Freedmen D 231,
Ella Humes, ----------Cherokee Freedman D 232,
Aaron Martin,---------- Cherokee Freedman D 233,
Michael Martin,---------- Cherokee Freedman D 234,
George Martin, et al.,------- Cherokee Freedmen D 237,
Joshua Martin, ---------- Cherokee Freedman D 238,
Edward Brown, et al.,---------Cherokee Freedmen D 247,
Israel Martin, et al., -------Cherokee Freedmen D 307,
Nellie Brown et al., ---------Cherokee Freedmen D 319,
Harriett Tucker, et al.,------Cherokee Freedmen D 697,
Lydia Carter, ----------Cherokee Freedman D 716,
Allie McElroy et al.,-------- Cherokee Freedmen D 717,
Robert Harper, ---------- Cherokee Freedman D 718,
Jordon Harper, ---------- Cherokee Freedman D 721.

--ooOoo--

ANSWER OF ELIZA GAINES, ET AL., TO MOTION TO REVIEW AND REJECT.

The motion of Attorney for the Cherokee Nation to review and reject recites that all the applicants herein were admitted to citizenship by the decision of the Commission to the Five Civilized Tribes on the 5th day of September 1903, and that said decision was appealed by the Attorney for the Cherokee Nation, and was affirmed by the decision of the Secretary of the Interior on April 4, 1904, and the Freedmen above named were so notified by letter from the Commission of the Five Civilized Tribes, a copy of one of the letters here

follows:

"DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, April 18,1904.

John H. Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your four minor children, Alice, Jessie H., Ollie, and Lucy Nash, as Cherokee Freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

T. B. Needles,

Commissioner in Charge."

And again the above named Cherokee Freedmen were notified by letter, a copy of one of which appears as follows:

"DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 8,1904

Eliza Gaines,

Bluejacket, Indian Territory,

Dear Madam:

You are hereby advised that the name of yourself appears upon a partial roll of Cherokee Freedmen approved by the Secretary of the Interior on November 16, 1904.

You are further advised that you will be permitted to appear before the Cherokee Land Office at Tahlequah, Indian Territory, and select allotments for those whom you are entitled to represent, when your ticket of admission is reached in the regular order.

Respectfully,

Tams Bixby,

Chairman."

One of each of the above quoted letters was sent to each one of the applicants named in the motion to review, and it therefore is conclusive that these applicants were duly admitted to citizenship by decision of the Commission to the Five Civilized Tribes on the 5th day of September, 1903; that the said decision admitting them to citizenship was affirmed on appeal by the Secretary of the Interior on April 4, 1904, and that they were duly enrolled upon the approved schedule of Cherokee Freedmen, which was approved by the Secretary of the Interior, on November 16, 1904, and that they were allowed to appear at the Cherokee Land Office as duly enrolled and approved Freedmen Citizens of the Cherokee Nation, and to select allotments of land to which they were entitled as Cherokee Freedmen Citizens of the Cherokee Nation; that they did so appear at the Cherokee Land Office and selected their allotments, and they were issued certificates of allotments by the Commission to the Five Civilized Tribes for the same; that over two years had elapsed since the final decision of the Commission, and of the Secretary of the Interior affirming the same, before this motion to review and reject was filed by the attorney for the Cherokee Nation; that they have selected their allotments and have been in full, undisturbed and un-restricted possession of their share of the lands of the Cherokee Nation, holding the same under allotment certificates issued by the Commission to the Five Civilized Tribes, which under the law is "conclusive evidence of the right of an allottee to the tract of land described therein." (See Sec. 21, Act of Congress approved July 1,1902, which was ratified by a vote of the Cherokee Nation on August 7, 1902.)

We respectfully urge that there should be some finality to these decisions by the Commission to the Five Civilized Tribes which have been affirmed by the Secretary of the Interior, and there should be some where, where the parties in whose favor a decision is rendered by the authorities having jurisdiction in the cause, should have a vested right in said decision. These parties having won the case

below, and again on appeal came out victorious, and after said decisions, having been ordered enrolled upon the final roll of the Cherokee Nation, and having been enrolled and said roll approved by the Secretary of the Interior, as is shown in the above case, and having taken their lands and secured conclusive evidence of their rights to the same, we submit that after a lapse of two years they should not be disturbed in their rights acquired by said decision, and that this motion for review and rejection of the applicants should be denied, and under act of Congress approved April 26, 1906, in Section 3, it is clearly shown that it was not the intention of Congress to disturb such cases as this, of persons who had heretofore made application to the Commission of the Five Civilized Tibes, or their successor, and had been adjudged entitled to enrollment by the Secretary of the Interior, and we here quote that part of Section three, which is applicable to Cherokee Freedmen in the Cherokee Nation, which is as follows:

> "The rolls of Cherokee Freedmen shall include only such persons of African descent, either free colored, or the slaves of Cherokee citizens, and their descendants, who were actual, personal, bona fide residents of the Cherokee Nation August Eleventh, eighteen hundred and sixty-six, or who actually returned and established such residence in the Cherokee Nation on or before February Eleventh, eighteen hundred and sixty-seven; this above provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes, or its successor, and has been adjudged entitled to enrollment by the Secretary of the Interior."

The above proviso takes the class of cases as presented here, from out of the terms of the section preceding it, and says that it shall not prevent the enrollment of persons who have heretofore applied, and whom the Commission and the Secretary have ordered enrolled, and under all the rules of statutory construction, the proviso governs in the exceptions covered by it, and restricts the final language of the act of the section to which the proviso applies, and these

cases come clearly within the exception of the proviso as quoted above.

See Sections 216, 222, 223 of Chap. 11, Sutherland on Statutory Construction, 1891 Publication.

And we respectfully submit that these cases had been finally adjudicated, judgment rendered in the lower court, appealed to the court of last resort, and finally decided in favor of the applicants by the court of last resort (the Secretary of the Interior in these cases) and were finally enrolled upon the final approved roll of Freedmen citizens of the Cherokee Nation, but the motion urges that at a subsequent date from the rendition of judgment in these cases, that the court took a contrary view in a case, which the motion urges was similiar to the cases here, but we have never heard of the legal principle that because of a court having subsequently reversed itself, that all cases heretofore finally determined contrary to the decision of the court, reversing itself, being re-opened and decisions changed or modified to suit the last decision, but we understand the legal principle to be that the decision reversing former decisions, only establishes rule of conduct to be followed by the court in like cases pending before the court at the time of the decision, or any future cases that may come before the court involving the same question.

Therefore, we contend that the decisions cited by counsel in the motion here, cannot possibly affect similiar decisions made two years prior to the date of the filing of this motion to re-open and reject, and we further respectfully urge that the motion to re-open and reject does not raise any new questions of law or fact than those that were fully submitted to the court in the presentation of the cases before they were finally adjudicated. All questions of law and fact were fully argued and presented in the brief of attorney for the Cherokee Nation before the court below, and an appeal to the Secretary of the Interior, and all questions of law and fact, were finally passed upon by the courts having jurisdiction of the cases and the rights of the contesting parties have been fully decided and crystalized by the judgments of the courts having jurisdiction of the cases rendered in said cause., we do not understand that there is any principle of law

to entitle the attorney for the Cherokee Nation at this late day to have the causes re-opened for further hearing or adjustment since all questions of law and fact in these causes were presented and passed upon by the court at the time the final judgment was rendered in these causes.

The Commission to the Five Civilized Tribes was vested with full authority and jurisdiction to hear and determine the rights of the applicants in their claims to citizenship in the Cherokee Nation; the cases were tried by them, evidence taken on both sides and submitted for final decision; the Commission to the Five Civilized Tribes decided the issues in favor of the applicants and against the contention of the Cherokee Nation; the Cherokee Nation then appealed said causes to the Secretary of the Interior, who had appellate jurisdiction in said causes, and submitted its grounds of appeal, brief and argument on the same, and after a full and complete hearing and full consideration of the cases, the Secretary of the Interior affirmed the decision of the lower court, and the Secretary of the Interior being the court of last resort, our contention is that his decision was final in these causes, and that his action thereafter in ordering their enrollment, which order was complied with, and the roll approved as the final roll of the Cherokee Nation, was final in these causes; that the re-opening of these cases would force them, in addition to what they have already paid out in the premises, to be at a great expense in the defense of their rights, and the findings heretofore made should not be disturbed, and the applicants should not be compelled to go to further expense, or to submit themselves to a further vexation and risk of another contest. We contend that rights secured by judgment can not be divested.

"The rights secured to either party to a suit by an adjudication of the matter in controversy between them are proprietary rights which the Constitution will protect. The rights secured by the judgment are such as the law gives to the prevailing party when it is rendered. To materially enhance or diminish those rights is to work a deprivation of the rights of one of the parties."

In 15th Pa., St.18, Chief Justice Gibson remarked: "It is not more intolerable in principle to pronounce an arbitrary judgment against a suitor than it is injurious in practice to deprive him

of a judgment which is essentially his property and subject him to the vexation, risk and expense of another contest."

Sutherland on Statutory Construction, P.628, Sec.480, says:

"When a right has been perfected by judgment, the fruits of re-covery cannot be diverted by new legislation, nor subjected to new hazard by reviving a new right to appeal or some other mode of review".

After these applicants had been duly admitted to citizenship, placed upon the final roll of the Cherokee Nation, by the Secretary of the Interior, which final rolls have been approved for more than two years, they were allowed to file and selected their allotments of lands in the Cherokee Nation; certificates of allotments were duly issued and delivered to each of them. On the 21st day of April 1904, Congress of the United States gave Freedmen Citizens of the Cherokee Nation, the right to alienate their lands by the following act" And the restrictions upon the alienation of lands of allottees of either of the Five Civilized Tribes of Indians who are not of Indian Blood, except minors, are, except as to home-steads, hereby removed********** pursuant to these legal rights most of these applicants have sold and transferred their allotments, exclusive of their homesteads, to bona fide purchasers, for value, which is shown by copy of deeds hereto attached.

It seems to us that it would now be an act of violence for the Department to grant the motion of the Cherokee Nation herein, which would involve the title to hundreds of acres of land, purchased legally by bona fide purchasers, who had every reason to believe that a perfect title had been vested, by the United States Government, by the applicants herein, their grantors.

Then in view of the above quoted facts, ~~xx~~ law and decisions, we beg to respectfully submit that these cases are <u>res adjudicata</u> and had been for over a period of two years before the attorney for the Cherokee Nation filed his motion to re-open and reject, and we respectfully submit further that the Act of Congress of April 26th, 1906, clearly protects these freedmen citizens of the Cherokee Nation by the provisions above quoted as contained in

Section 3, where it says, after defining whom the roll of Cherokee Freedmen should include: "This provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes, or its successor, and has been adjudged entitled to enrollment by the Secretary of the Interior". And after having been placed upon the final roll of Cherokee Freedmen citizens of the Cherokee Nation under the decisions and under the orders of the Secretary of the Interior, which roll has been approved by the Secretary of the Interior, and having been allowed to file on their lands and having been issued allotment cetif-icates, which are conclusive evidence of the title, sell to innocient purchasers for value, acting upon the decision of the Commission and Secretary of the Interior, and being assured of the title by virtue of the conclusive evidence of title issued by the court admitting them to citizenship under the orders of the Secretary of the Interior, and in view of the above grounds urged by us, we pray that the motion to review and reject the applicants, filed by the attorney for the Cherokee Nation in the above causes, be disallowed, and the former decisions of the Commission and the Secretary of the Interior, and their final enrollment, be not disturbed.

Respectfully submitted,

_____

_____

Attorneys for Applicants.

DEPARTMENT OF THE INTERIOR

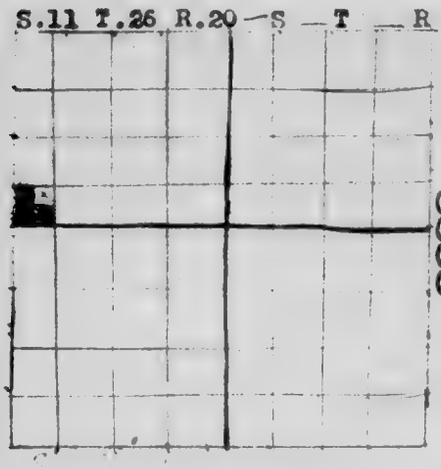
Commission to the Five Civilized Tribes.

CERTIFICATE OF HOMESTEAD ALLOTMENT.

Roll Number.
Cherokee Roll | Freedmen Roll
| 3553

Certificate
No. 25661.

S.11 T.26 R.20 — S — T — R



Cherokee Land Office.

Vinita, I.T. March 6th 1903.

This certifies that Malind A. Johnson has this day selected the following described land, as a HOMESTEAD, viz:

sub-division of	Section,	Town,	Range
SE/4 of SW/4 of SW/4 W/2 of SW/4 of SW/4	11	26	20

Containing 30 acres, more or less, as the case may be, according to the United States survey thereof. Total appraised value of land described in this certificate $120.00

COMMISSION TO THE FIVE CIVILIZED TRIBES

(Signed) Tams Bixby
Chairman.

This certificate is not transferable.

In the Matter of the
Application of Eliza Gaines
et al.
Cherokee Freedman D. 220 to
232, inclusive; 235 to 238,
inclusive, 247, 307, 319, 697
716 to 718 inclusive, and 721.

Answer to Motion to Review
and Reject.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES
FILED
SEP 7 1906
COMMISSIONER.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of ELIZA GAINES, ET AL., as Cherokee freedmen, consolidating the applications of:

Eliza Gaines	Cherokee Freedmen D 220,
Jane Webb	Cherokee Freedmen D 221,
Mary Mabry, et al.	Cherokee Freedmen D 222,
Berry Thompson, et al.	Cherokee Freedmen D 223,
Julia Nash	Cherokee Freedmen D 224,
Georgia Jones, et al.	Cherokee Freedmen D 225,
John H. Nash, et al.	Cherokee Freedmen D 226,
Malinda Johnson, et al.	Cherokee Freedmen D 227,
Eliza Grooms, et al.	Cherokee Freedmen D 228,
Berry Nash.	Cherokee Freedmen D 229,
Edward Nash,	Cherokee Freedmen D 230,
Carrie Nashis, et al.	Cherokee Freedmen D 231,
Ella Humes	Cherokee Freedmen D 232,
Aaron Martin	Cherokee Freedmen D 235,
Michael Martin	Cherokee Freedmen D 236,
George Martin, et al.	Cherokee Freedmen D 237,
Joshua Martin	Cherokee Freedmen D 238,
Edward Brown, et al.	Cherokee Freedmen D 247,
Israel Martin, et al.	Cherokee Freedmen D 307,
Nellie Brown, et al.	Cherokee Freedmen D 319,
Harriett Tucker, et al.	Cherokee Freedmen D 697,
Lydia Carter	Cherokee Freedmen D 716,
Allie McElroy, et al.	Cherokee Freedmen D 717,
Robert Harper	Cherokee Freedmen D 718,
Jordon Harper	Cherokee Freedmen D 721.

Reply of Cherokee Nation to Supplemental Brief of Applicants.

Counsel in their supplemental brief on behalf of applicants take issue with the contention on behalf of the Cherokee Nation as to what was the ruling of the Department laid down in the Harry Still case. By reference to our motion to review and reject the applicants, we find that the decision of the Cherokee Commission on Citizenship rendered on the 28th day of September, 1882, as quoted at length, and the ruling of the Interior Department and of the Assistant Attorney General in the Harry Still case, was quoted from the John Morgan case because the Harry Still case was not immediately before us at the time. On the 5th day of October, 1905, in the Harry Still case the Assistant Attorney General, commenting upon what faith and credit should be given to a decision of a Cherokee Court or tribunal in citizenship matters, said:

"The Commission (referring to the Dawes commission) should regard itself rather as a court reviewing the case as upon a petition for a new

trial than as exercising an original jurisdiction and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years.

No allegation is made in this case that the determination of the Court in 1871 was vitiated by fraud and no attempt has been made to show that it was made on account of the lack of evidence then available."

In our motion for review in this case we commented upon the decision of the Secretary of the Interior and of the Assistant Attorney General in the Harry Still case as cited in the John Morgan case and counsel for applicants in their supplemental brief confuse the recent decision by the Commissioner to the Five Civilized Tribes with the decision of the Department and of the Assistant Attorney General. We desire to call the attention of the Department to what the Department has held with reference to what effect should be given a regular judgment of a Cherokee court or tribunal. The last decision of the Commissioner to the Five Civilized Tribes from which counsel for applicants now quote, dated August 20, 1906, denies that the Act of the Cherokee Council of December 3, 1869, gave the court in 1871 authority to pass finally upon a citizenship case; or, in other words, the Commissioner to the Five Civilized Tribes denies in this opinion that the Court had jurisdiction to admit Harry Still to citizenship in 1871, but only had jurisdiction to pass upon the question of fact submitted to it, namely, as to whether he was "state raised," or "sold out of the Nation," or "too late," and that the Court at that time only had jurisdiction to pass upon those questions submitted. But we need not argue that technical question in this case; that is not the question before us, and we must not be confused by it. The present claimants were denied by a citizenship court, but under an entirely different act and not under the Act of December 3, 1869, but under the Act of the National Council of ten years subsequent thereto, and therefore the question of the Court's jurisdiction, when it denied the applicants on September 28, 1882, cannot be called in question, and we only quoted from the decision of the Department and of the Assistant Attorney General to support our contention as to what effect should be given to a decision of the Cherokee Court or commission having jurisdiction over a citizenship case. We find that these applicants petitioned the Commission on Citizenship as early as September 26, 1880, to be admitted to citizenship as freedmen citizens of the Cherokee Nation under the 9th Article of

the treaty of July 19, 1866; we find that the case was continued by the claimants on October 3, 1881; we find that the record shows that it was continued by the commission until a subsequent date; we find that the case was submitted by the claimants September 20, 1882, and that it was submitted by the Solicitor on behalf of the Cherokee Nation on September 28, 1882; we find from the record that the applicants were represented by J. W. Bryant as their attorney, and we find that on the 28th day of September, the Court found as follows:

"And now on this the 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being read and duly considered by the commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same i s hereby rejected; said claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover."

By reference to the above decision it will be noted that it recites that the case came on for "final hearing" and the decision further recites: "and all the evidence in the case being read and duly considered by the Commission," which shows that evidence was submitted both for and against the applicants, and it shows that the court considered and read the evidence. We again insist that the question of the jurisdiction of the Court in 1871 as conferred upon it by the Act of December 3, 1869, is not in question in this case, because this is a Commission on Citizenship created by an Act of the National council some ten years thereafter and an entirely different Act. But what we want to call attention to is the faith and credit which the Assistant Attorney General in the Harry Still case shows should be given to one of these judgments, and the Assistant Attorney general in that case directed that the Commission to the five Civilized Tribes should hold as follows:

"The Commission should regard itself rather as a court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than 30 years."

This is exactly our contention in this case. These people were represented; they petitioned a court of competent jurisdiction; they submitted their evidence; the Cherokee Nation was represented and submitted

its evidence; and we submit that the decision of September 28, 1882, should not be overturned after 24 years, after the impairment and loss of available evidence. There has been no attempt to show that the decision in 1882 was vitiated by fraud; no attempt whatever is made to attack that judgment; and if that court, as we contend, had jurisdiction, and if the parties were represented, if they submitted the testimony as the judgment shows, and if the same was considered by a court of competent jurisdiction, then we hold that the decision of the Assistant Attorney General in the Harry Still case is pertinent for the purpose of showing what faith and credit should now be given to the decision of the Commission on Citizenship which was rendered on September 28, 1882.

The United States courts have held in numerous cases that the judgments of the Cherokee courts are entitled to the same respect andcredit as were judgments of the State courts:

"The proceedings and judgments of the Courts of the Cherokee Nation in cases within their jurisdiction are on the same footing with those of the Courts of the territories of the Union and entitled to the same faith and credit."

Mehlin vs. Ice 56 Federal Reporter 12; Stanley vs. Roberts 59 Federal Reporter 856; In re Mayfield 141 U. S. 107; Barbee vs. Shannon 40 Southwestern 584; Exondince vs. Poor 56 Federal Reporter 777.

We submit that the decisions in the above cases support the decision of the Assistant Attorney General in the Harry Still case rendered on October 5, 1905, and these decisions recite that the Cherokee courts or tribunals are entitled to the same faith and credit as if they were the decisions of the courts of the surrounding states. That is our contention exactly, and our contention is that if these people appeared before a court of competent jurisdiction a generation ago and there submitted themselves to the jurisdiction of the Court and were fairly represented as the record shows that these claimants were, had an opportunity and did submit their testimony as the record shows they did and their case was duly considered, as the judgments in this case recites, then we say in the language of the Assistant Attorney General, that this judgment should not be overturned after the lapse of a long number of years, after the impairment or loss of available testimony, unless it could be directly shown that the judgment denying them was vitiated by fraud, and this is not even attempted in this case.

These freedmen cases depend almost entirely upon questions of fact. Immediately after the War there were hundreds of witnesses available by whom the exact date of the return of any applicant could be proved, but as recognized by the Assistant Attorney General now that 40 years have elapsed since the making of the treaty of 1866, perhaps nine-tenths of the owners of slaves and particularly those old enough to be of any very great value as witnesses, have died, and it is certainly a very great injustice to the Cherokee Nation to say that these judgments and decisions rendered immediately after the war, when there were plenty of witnesses available and who did appear and testify-----we say that it is an injustice to set aside decisions of courts or commissions of competent jurisdiction based upon that direct evidence by the meagre and uncertain evidence given 40 years after the treaty of 1866. We submit therefore that the judgment in 1882 rejecting these people should be respected; we submit that no effort has been made to show fraud, nor has there been any insinuation of fraud as against the Court; we submit that the Court had competent jurisdiction; and these applicants being represented by counsel and having submitted their cases to the Court, and submitted their testimony, they are now estopped from even denying the jurisdiction of the Court to which they appealed, and this very question was decided in the case of Mehlin vs. Ice, hereinabove cited.

Counsel for applicants argue that inasmuch as these people have once been admitted to citizenship by the Commission that we cannot now make a motion to reopen or reconsider, or to have their cases reviewed. In the first place we deny that this is true, and cite the fact that the Department is now and has been reopening a great number of cases where they were either admitted or rejected, where motions have been filed to reopen them upon proper grounds. Second, this question was set at rest in the celebrated citizenship case known as the Stephens case 43 L ed. 1041, wherein the Cherokee Nation plead that judgments of the Courts in Indian Territory had been made final by the Congress of the United States and the same could not be reopened and resubmitted to the Supreme Court of the United States. In other words, plead that the judgments of the courts in Indian Territory were final. Finally we submit that the recent decision by the

Circuit Court of Appeals in the case of Wallace vs. Adams, 143 Federal 716, wherein the constitutionality of the citizenship court created for the Choctaw and Chickasaw nations was upheld completely sets at rest the theory of counsel for applicants in this case. The court in that case held beyond question that there was no such thing as res adjudicata until after allotments made, patents issued and delivered to the allottees and upheld the creation of the Citizenship Court and discussed at length the very proposition submitted in the brief by counsel for applicants and against their contention. Finally, we submit that if the argument of counsel for applicants is true the Cherokee Commission on Citizenship in 1892, having jurisdiction, and having rejected the applicants, that that rejection is final and ~~that~~ if the same faith and credit was to be given to Cherokee courts and commissions as the courts hold must be given, then the Cherokee Nation has a right to plead that judgment as a final adjudication of the citizenship of the applicants against them, and for the reasons hereinabove cited, and the other reasons cited in our motion for a review, we submit that the decision of the Department heretofore rendered in this case should be reviewed and that the applicants should be rejected.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

Card F. 1281

32 F. 1281.

IN RE
THE DEATH OF
Eliza Gains
A CITIZEN OF THE
Cherokee Nation

28

Approved MAR 20 1908 190

J. G. Wright
Commissioner.

LKP 141

Department of the Interior,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Eliza Gains
(Here insert name of deceased)

a citizen of the Cherokee Nation, who formerly resided at or near Bluejacket Okla. Ind. Ter., and died on the 13th, day of December, 1904.
(Here insert name of post office)

AFFIDAVIT OF RELATIVE

State of Oklahoma
County of Craig. }

I, Julia Nash, on oath state that I am about 40 years of age and a citizen, by Cherokee Freedman, of the Cherokee Nation; that my postoffice address is Vinita, Okla. Ind Ter.; that I am a daughter of Eliza Gains.
(Here insert name of postoffice)
(State relationship: as the father; an uncle; a cousin, etc.)
(Here insert name of deceased)

who was a citizen, by Cherokee Freedman, of the Cherokee Nation and that said Eliza Gains died on the 13th, day of December, 1904.
(Here insert name of deceased)

WITNESSES TO MARK:

Julia Nash

(Must Be Two Witnesses) }

Subscribed and sworn to before me this 17th, day of March, 1908

My commission expires Aug. 31, 1911. M. Forell
Notary Public.

AFFIDAVIT OF ACQUAINTANCE

State of Oklahoma
County of Craig }

I, Ella Vann, on oath state that I am 23 years of age, and a citizen by Cherokee Freedman of the Cherokee Nation; that my postoffice address is Vinita Okla., Ind. Ter.;
(Here insert name of postoffice)

that I was personally acquainted with Eliza Gains
(Here insert name of deceased)

who was a citizen, by Cherokee Freedman of the Cherokee Nation; and that said Eliza Gains died on the 13th, day of December, 1904.
(Here insert name of deceased)

Ella Vann

WITNESSES TO MARK:

(Must Be Two Witnesses) }

Subscribed and sworn to before me this 17th day of March, 1908.

My commission expires Aug 31, 1911. M. Forell
Notary Public.

34
F.D220

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mrs. Eliza Gaines,
Bluejacket, I.T.
Cherokee F-D-220
Register.

COPY.

Cherokee N.B.-220
etal.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie M., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Garrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Greene as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby.

Chairman.

Enc. D-6

POOR ORIGINAL -
BEST AVAILABLE COPY

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

POOR ORIGINAL -
BEST AVAILABLE COPY

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah L. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDOLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

Cherokee Freedmen
D-220.

Muskogee, Indian Territory, September 30, 1903.

Eliza Gaines,

Bluejacket, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished you by the attorney for the nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register.
Enc. D-72

Chairman.

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah A. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Alkie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrant the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Dennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-22 O

Muskogee, Indian Territory, April 18, 1904.

Eliza Gaines,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 1[illegible], 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Groome, Berry and Edward Nash, Carrie and Delilah Harris, Ella Jones, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Hellie, Roxie, Rosea, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah Tucker, Glen Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Hane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greems, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ----------George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
[illegible] ---------- Allie McElrey, et al.,

F-1304---------- Robert Harper,
F--389---------- Mary Robbins, et al.,
F-1414---------- Houston West, et al.,
F-1415---------- George West, et al.,
F-1416---------- Callis West,
F-1417---------- Callis West,
F-1494---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14,1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinely Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Cherokee Freedmen
1281 et al.

Muskogee, Indian Territory, July 21, 1906

Seymour Riddle,

Attorney for Eliza Gaines, et al.

Vinita, Indian Territory.

Dear Sir:

This office is in receipt of letter signed by yourself and W. P. Thompson, dated July 14, 1906, stating that you have been employed by the applicants in the consolidated Cherokee freedman enrollment case of Eliza Gaines et al., and that you will, within a few days, file an answer to the motion for review of this case, filed by the Attorneys for the Cherokee Nation.

In reply you are advised that yourself and W. P. Thompson have been entered as attorneys of record in said case, and you will be advised of any further action taken.

Respectfully,

L M B

Commissioner

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5 , 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16,1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee court,

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer an and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental bried filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the department september 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the commissioner on July 27, 1904, showing that he had died on september 24, 1901. subsequent proceedings, however, with reference to his death tend to show that the date of his death was december 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to september 1, 1902, and his name was subsequently stricken from the roll of cherokee freedmen.

The motion and argument of the attorney for the cherokee Nation insists that as the principal applicant in this case was denied cherokee freedmen citizenship by the cherokee commission on citizenship on september 26, 1902, that they are not entitled to enrollment as citizens of the cherokee Nation, following the department's ruling in the Harry Still and John Morgan cherokee freedmen cases. The proceedings had before the cherokee commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James, Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as as witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearingsis so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the Attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by theattorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

LJr

DEPARTMENT OF THE INTERIOR, LLR

WASHINGTON.

I.T.D. 1888-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 10644[illegible]-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Athel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee F.
1281

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 7, 1907.

Eliza Gaines,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-20
JMH

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams [illegible]

Commissioner.

Encl.H-21
JMH

Cherokee F.
1281

COPY

Muskogee, Indian Territory, March 7, 1907.

Seymour Riddle,

Attorney for Eliza Gaines,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al. as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl.H-22
JMH

Cherokee F.
1281

Muskogee, Indian Territory, March 7, 1907.

W. P. Thompson,

Attorney for Eliza Gaines,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.H-23
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907.

I.T.
47948-1907.

DEPARTMENT OF THE INTERIOR, GAW
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

May 29, 1907.

The Commissioner
to the Five Civilized Tribes,
Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,
(Signed) C. F. Larrabee,
Acting Commissioner.

GAW-GH.

C.F 1281.

Muskogee, Indian Territory, June 8, 1907.

Eliza Gaines,

Bluejacket, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department May 17, 1907.

Respectfully,

S.W.

Acting Commissioner.

Cherokee F 1281

Muskogee, Indian Territory, June 8, 1907.

Messrs. Riddle & Thompson,

Attorneys for Eliza Gaines,

Vinita, Indian Territory.

Gentlemen:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-1.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Elisa Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

REFER IN REPLY TO THE FOLLOWING:

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 8, 1907.

Miss Guinea,

Bluejacket, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department May 17, 1907.

Respectfully,

Geo. D. Rodgers

Acting Commissioner.

S.V.

REFER IN REPLY TO THE FOLLOWING:

G.F.7898-08.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Oklahoma, March 14, 1908.

Julia Nash,

Vinita, Oklahoma.

Madam:

Replying to your letter of March 9, you are advised that the deed to your allotment has been sent to you by registered mail.

Deeds to the allotment of your mother, Eliza Gains, are ready for delivery and inasmuch as it appears that you are her next of kin, these deeds will be mailed to you when this office shall be supplied with proof of death. There is enclosed, for that purpose, a blank death affidavit which should be properly executed and returned to this office together with this letter.

Respectfully,

Thos Ryan
Acting Commissioner.

WSDM (LKP)

Enc. 14-1.

RETURNED

RETURNED

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MUSKOGEE MAR 8 1907 PM

BLUE JACKET IND. TER. MAR 9 1907

OFFICIAL BUSINESS PENALTY FOR PRIVATE USE $300

Eliza Gaines,
Bluejacket, Indian Territory.

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MUSKOGEE JUN 8 5 PM 1907 IND. T.

OFFICIAL BUSINESS PENALTY FOR PRIVATE USE $300

Eliza Gaines,
Bluejacket, Indian Territory.

REGISTRY RECEIPT.

Post Office at FT. GIBSON, I. T.

Registered ~~Letter~~ Parcel No. 637 Rec'd SEP 13 1901, 190

of J. E. Stone
Ft Gibson I.T.

addressed to Bessie Chapman,
Chelsea I.T.

Hubbard Ross, P. M.

P. M.

Cher Fr 1282

See Cher Fr 1281-11-1298

Cher Fr 1282

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
[illegible] 1901

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Jane Webb for enrollment as a Cherokee Freedman; said Webb being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Jane Webb now, I was Jane Brown first.
Q How old are you, Jane? A I don't know, the white folks said I was about six years old then the war ended.
Q What is your post office? A Bluejacket.
Q What district do you live in? A Cooweescoowee district.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A Not anyone.
Q Got no children under 21 years old? A Got one, he is of age.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A It ought to be on there I had it put on down at Tahlequah.
Q Did you ever apply to any other Nation or tribe for enrollment?
A No, sir.
Q Did you ever draw any money from any other Nation or tribe?
A No, sir.
Q Did you draw what is known as the strip payment money? A I drawed three times.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Are you married? A Yes, sir.
Q What is your husband's name? A Jim Webb now.
Q Were you ever married before? A Yes, sir.
Q What was your other husband's name? A William Brown.
Q Is he living? A Yes, sir.
Q Were you ever married before that? A No, sir.
Q What was your father's name? A Edmond Vann.
Q What was your mother's name? A Mary Stover.
Q Are they living? A Yes, sir.
Q Well, now what was your maiden name; what was your name when you were a girl? A Jane Stover.
Q Were you a slave during the war? A Yes, sir.
Q Before the war? A Yes, sir.
Q Whom did you belong to? A John Stover.
Q Did you go out of the Cherokee Nation during the war?
A No, sir.
Q Always remained in the Cherokee Nation? A Yes, sir.
Q Have you lived here ever since? A Yes, sir.
Q All your life? A Out Master took us to Texas and brought us back.
Q Took you to Texas when? A In the time of the war.
Q When did he bring you back? A Brought us back as far as the Chickasaw Nation and then he died.
Q When was that A I don't know what year he died in.
Q In what year did he bring you to the Chickasaw Nation? A I don't know.
Q Don't you know in what year you come to the Cherokee Nation?
A Mrs. Nancy Daniel said it was '66.
Q How long did you live in the Chickasaw Nation until you come to the Cherokee Nation? A Come right up.

BY MR. SITH, of the firm of Smith & Mellette, Attorneys for Applicant:

Q Is Eliza Gaines your sister? A Yes, sir.
Q Is she older or younger than you? A Older than I am.
Q You spoke of your Master's having brought you back as far as the Chickasaw Nation; who was along when you were coming back?

A Eliza Gaines was along and myself, and my sister Lydia and my brother Berry and my sister Mary.
Q Did your sister, Eliza, have any children? A Yes, sir.
Q What children did she have then? A She had Julia, had Georgia and she had John and then Lizzie, that is all she had then.
Q Who is Berry Thompson? A That is my brother.
Q Where are those sisters other then Eliza that you have spoken about; are they living or dead? A They are living.

COM'R NEEDLES:--Reference is made to the testimony taken in the case of Eliza Gaines ~~made before this~~ and made part of this record. Her name is found on D. Card #220.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married the first time? A I married in Texas.
Q Do you remember what year you were married? A No, sir.
Q What is your oldest child's name? A Etta Brown.
Q Where was it born? A I t was born up on the Larkin place.
Q How old is it? A I don't know, ~~he is~~ this gives his age on his paper, I don't know.
Q That was your first child? A Yes, sir.
Q You come up here directly after you married? A Yes, sir.
Q You haven't any certificate of marriage? A No, sir.
Q You don't know what place in Texas you were married?
A No, sir.
Q Did you see the young Mistress Martha in the Chickasaw Nation?
A Yes, sir.
Q Did you stay there where she was when her father and your Master died? (No response.)
Q Was it near where Martha lived? A I don't know, I guess it was.
Q Were you living in the same neighborhood down there that Martha Bakin was living in? A Yes, sir.
Q You come on up to Fort Gibson with your sister, Eliza Gaines?
A Yes, sir.
Q You followed her the rounds that she testified that she went?
A Yes, sir, I went all the rounds.
Q I want to ask you if Mrs. Dora Trott was not one of your young Mistresses? A Yes, sir, she was one of them.
Q She lives here in Vinita? A Yes, sir.
Q Did you see her when you come up here to Cabin Creek?
A No, sir; I never seen her until Homer and Birtie was about that high. (Indicating.)
Q You didn't pass by her house when you come up here? A No, sir; I did not. I know we didn't pass any town except the town of Gibson.
Q You never lived up in Kansas? A Yes, sir, lived up in there off and on.
Q What town in Kansas did you stay? A Chetopa.
Q Did you live in the town? A Yes, sir and would go back home.
Q Did you live in any other town in Kansas? A No, sir, never lived in any other town, was up to Fort Scott to visit my sister.
Q What was your sister's name? A Ann Wilson, she was Ann Stover when she was a slave.

BY MR. SMITH:

Q You went up to Fort Scott to visit your sister, you say?
A Yes, sir.

COM'R NEEDLES:--Jane Webb applies for the enrollment of herself as a Cherokee Freedman. Her name cannot be found upon the authenticated roll of 1880. Her name is found upon the Kerns-Clifton pay roll as indicated in the testimony. She makes satisfactory proof as to residence. By agreement of the Counsels for the Applicant and the Cherokee Nation present, the testimony taken in the matter of the

enrollment of Eliza Gaines, D. #220, and the testimony taken in the case of Berry Thompson, D. #223, is hereby referred to and is made part of the record in this case. Her name will now be placed upon a doubtful card awaiting further consideration. When this case is decided by the Commission she will be notified by due course of mail. If in the meantime she desires to introduce any additional testimony the same will be received.

The Kerns-Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 162, #4005, Jane Webb, Cooweescoowee.District.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

C Mckinney

Commissioner.

B

J D 221

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 9 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Blue Picket I.T.

District Ooo,

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife Jane Webb Age 51

Owner's name ..... Citizenship .....

Year R. C. Page 162 No. 4005 District Coo

Parents:

Father Edmond Vann - dead Citizenship .....

Mother Mary Stover - dead Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by No. 1 Stenographer J. C. Rosson

Not Entitled

10 - 7, 13 - 20

To be filed with the case of Jane Webb, F.-D.#221.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Cooweescoowee.
Q Do you appl to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo.
Q How old is Leo? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enrolled by any other Nation or tri be?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (no response.)
Q Kinda half way? A Yes, sir, just like the rest of them.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Is it on the Kerns-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of marriage? A Yes, sir.
Q Whom can you prove your marriage by? A Her sisters.
Q Are they here? A Yes sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Did you see him marry them? A Yes, sir.
Q Was Bluejacket a minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they lived together as man and wife ever since their marriage?
A Yes, sir.
Q Is Bell Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes, three.
Q Born to them while they were living together as man and wife?
A Yes, sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the Applicant, re-called, testified as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicants:

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.

Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kerns-Clifton roll? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You have heard the statement of your sister, Eliza, and sister, Jane; did you go the rounds with them? A Yes, sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked in Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I worked up there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage? A I worked out a good deal of the time, worked at Vinita some, I livd with my mother.
Q What was your mother's name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 188(roll or not?
A I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kerns-Clifton roll of Freedmen of the Cherokee Nation examined and the names of applicant's found thereon as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 16, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist.

COM'T NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, not the census roll of 1896. His name is found upon the Kerns-Clifton Pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the Counsels in this case, the record in the case of Eliza Gaines, D.#220, is referred to and made part of the record in this case.

The names of Berry Thompson and his three children as enumerated herein, will now be listed upon a doubtful card for the further consideration of the commission. When the decisions of the commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

---o.oOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed.) C. R. Breckinridge,
Commissioner.

--------o--------

J. O. Rosson, being first duly sworn as stenographer to the Commission to the Five Civilized Tribes, states that the above and foregoing is a true and complete copy of the original transcript of the testimony and proceedings in the case of Berry Thompson, et al., said original transcript having been made by me as stenographer.

J O Rosson

Subscribed and sworn to before me this 13th day of May, 1901.

M D Green

Notary Public/

To be filed with the case of Jane Webb, F.-D.#221.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it. (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever appliced to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1 80? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there. (referring to paper.)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kerns-Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicant:

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to, what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton roll? A I guess I am on it, you will have to look to see.

BY W. W. HASTINGS, Cherokee Representative:

Q Whom did you come back to the Cherokee Nation with? A I come back with Hohn Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how manycome along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.

Q You hired a wagon did you? A Yes, sir.
Q Do you remember the anNSs name you hired? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel atain.
Q About how long? A I guess it was about nearly, over six months, a year; we stayed there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q what children did you have at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Who did you work for at Fort Gibson? A I washed for the soldiers
Q and where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A Stayed until along in the Fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, right across the line.
Q You didn't go into the state of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side.
Q Yes, sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place? A Yes, sir.
Q Are any of Mr. Larkins' folks alive now? A Not as I know of.
Q He had a family did he? A Yes, sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A I don't know, he hired us to work.
Q Have you ever lived in Kansas since the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timbered Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket? A Yes, sir.
Q What direction is that, is it on the Cooweescoowee side? A Yes, sir.
Q Towards the sunset from Bluejacket? A Yes, sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You stayed about three or four years on the Larkins place? A Yes, sir.
Q Did you have any neighbors around there? A There was no neighbors but one family.

Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir.
Q Were you living there when the railroad come there? A No, sir, wasn't no railroad living there long before the railroad was built.
Q You were living there when the railroad was built? A Yes, sir, there wasn't no houses when the railroad come thorugh.
Q Were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now, Aunty, how far from the railroad track, the M. K. & T., were you living? A I don't know, we could not hear the train.
Q On the south of the track? A That was on this side of the track, over in Cooweescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry
Q John Henry what? A John Henry Nash, Julia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? (No response.)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by this name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carri Harrison.
Q Are they here? A There is Mary Maryberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers/
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash, or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I first known her she ar at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880, roll or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir; yes, sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come back in, along, in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.

Q About what season of the year was it you got back? A Along in the summer, spring like.
Q Of 1865? A Yes, sir.
Q And the follwoing winter? A No, it was the year we called there, that winter and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q Do you know her children, know what their names are all of them or not? A No, sir; I don't know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. Chambers?
A No, sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer? A Yes, sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A Yes sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865?
A Yes, sir.
Q And say it was the next winter you saw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I stayed there all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all hat bunch? A Yes sir.
Q You remember seeing her? A Yes, sir.
Q Well when did you next see her? A I seen her again a short time after that, I saw her there in a store the next time I saw her.
Q Whose store? A I can't call the man's name now; but anyhow it was the store George Snaders was working in; I guess you know don't you, don't you recall
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she s living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere bit, I heard of her living up by William Tucker's.
Q You never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several things.
Q How many times? A Twice, three times, one tim for selling boys and the next time for selling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A Never done anything with me.
Q Did they try you? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, turned me aloose and let me go home.
Q Never was convicted? A No, sir.

Q Tou don't remember seeing anybody but this woman in 1866?
A Oh, I seen lots others.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examin d by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau:
Q How old are you, James? A I am near 70 or oder, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH:

Q Do you know Eliza Gaines? A Yes, sir.
Q Some times called Nash? A I know her.
Q How long have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q Who was that? A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, souyh.
Q When did you return to the Cherokee Nation? A I returned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was at that time? (No response.)
Q When did you see Eliza Nash? A I ~~came back~~.
Q When I come back.
Q when was the first time you saw her? A At Gibson.
Q when? A In '66.
Q can you state at what time it was? A In the fall.
Q Did you know any of her family, any of her children?
Q No, sir, I could not tell anything about them.
Q Did you know her sister? A Yes, sir.
Q what was her sister's name? A Lydia was one and Jane she was on e and if I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q who did you see? A Lydia that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.
Q

BY W. W. HASTINGS:

Q Whom did you belong to when the war broke out? A John Alberty.
Q Hohn Alberty sold you ouf of there before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q were were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stover's
Q How far was that from where you were living? A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you know Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there washing, I don't know where she was living.
Q How do you heppen to remember seeing her? A I stopped there where she was and talked with her.

Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.
Q Where is that? A I don't know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tucker's.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it may have been a yea or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tucker's
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from where she lived on Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir. West of Bluejacket.
Q Jim, were you ever tried for anything by the Courts? A No, sir.
Q Never was arrested? A No, sir, not by Courts, I was not.
Q y Marshalls? A No, sir, I used to be a Marshall myself, I never was arrested for any crime of any kind, never was.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman: Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this Commission except the Kerns-Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

---oooOOOooo---

J. O. Rosson, being first duly sworn, as stenographer to the Commission to the Five Civilized Tribes, states that the above and foregoing is a true and correct copy of the original transcript of the testimony and proceedings taken in the case of Eliza Gaines; said original transcript having been made by me as stenographer.

J O Rosson

Subscribed and sworn to before me this 13th day of May, 1901.

M D Green
Notary Public.

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P221

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Jane Webb for enrollment as a Freedwoman of the Cherokee Nation, one copy of the original testimony of May 9th, 1901, one copy of original testimony, May 9th, 1901, from case of Eliza Gains, also one copy of original testimony, May 9th, 1901, from case of Berry Thompson. Testimony from the Gains and Thompson cases have been made a part of the record in the case of the Applicant.

William H. Smith

Attorney for Applicant.

Cherokee #D221.

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F.A 221

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on.....

.....

by delivering a true copy thereof on the .....day of.....A. D. 1901.

Given under my hand this.....

day.....A. D. 1901.

.....

Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the ..... day of SEP 18 1901 1901.

Mellette & Smith

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to.....

.....

on the.....day of A.D.1901

.....

Subscribed and sworn to before me this.....day of.....A.D.1901.

.....

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 18 1901

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF The application of Jane Webb for enrollment as a Cherokee Freedman:

Case No. F. D. 221

To Jane Webb or Mellette & Smith her attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita, Indian Territory,* Indian Territory, on the following dates, to-wit: Oct. 12th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 13 day of 19, 1901.

N. W. Hastings

J. S. Davenport

Attorneys for the Cherokee Nation.

File with case of Jane Webb, C.F.-D.#221.

Supl.C.F.-D.#220. R

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78.
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
Q When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~improve~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker? A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place? A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? .. It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done,

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell Creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acquainted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When,if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Craig? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Where ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Q~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda..
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behald of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mallette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Elize Gaines, D.#220.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Jane Webb, D 221;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Eliza Gaines, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines, ...	Cherokee Freedmen D 220
Jane Webb,.....	Cherokee Freedmen D 221
Mary Mabry, et al.,.....	Cherokee Freedmen D 222
Berry Thompson, et al.,.....	Cherokee Freedmen D 223
Julia Nash,.....	Cherokee Freedmen D 224
Georgia Jones, et al.,.....	Cherokee Freedmen D 225
John H. Nash, et al.,.....	Cherokee Freedmen D 226
Malinda Johnson, et al.,.....	Cherokee Freedmen D 227
Eliza Grooms, et al.,.....	Cherokee Freedmen D 228
Berry Nash,.....	Cherokee Freedmen D 229
Edward Nash,.....	Cherokee Freedmen D 230
Carrie Harris, et al.,.....	Cherokee Freedmen D 231
Ella Humes,.....	Cherokee Freedmen D 232
Aaron Martin,.....	Cherokee Freedmen D 235
Michael Martin,.....	Cherokee Freedmen D 236
George Martin, et al.,.....	Cherokee Freedmen D 237
Joshua Martin,.....	Cherokee Freedmen D 238
Edward Brown, et al.,.....	Cherokee Freedmen D 247
Israel Martin et al.,.....	Cherokee Freedmen D 307
Nellie Brown, et al.,.....	Cherokee Freedmen D 319
Harriett Tucker, et al.,.....	Cherokee Freedmen D 697
Lydia Carter,.....	Cherokee Freedmen D 716
Allie McElroy, et al.,.....	Cherokee Freedmen D 717
Robert Harper,.....	Cherokee Freedmen D 718
Jordon Harper,.....	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb, for herself; by Eliza Gaines, for her daughter Mary Mabry; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Leo and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Belle, Eva, Annie,

Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were filed with the Commission showing the birth of George and Julia Johnson; by Eliza Grooms, for herself and minor children, Martha, Dona, Peter W., Leuretha and Ennis Grooms; by Berry Nash, for himself; by Edward Nash, for himself; by Carrie Harris for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Humes, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lottie Martin, by Nellie Brown, for herself and minor children, Roxie, Moses, Jennie, William and Michael Brown; by Harriett Tucker, for herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah M. Tucker; by Lydia Carter, for herself; by Allie McElroy, for herself and minor child, Etta Taylor; by Robert Harper, for himself; and by Jordon Harper, for himself.

The evidence shows that Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein, and that all the other applicants in these several cases have been born since 1866, and, with the exception of Ella Humes and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidencefurther shows that Ella Humes is the daughter of Rosa Mango, sister of Eliza Gaines, one of said principal applicants, and, claims right to enrollment through her; that the said Rosa Mango was the salve of a Cherokee citizen at the commencement of the rebellion and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin is duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residingin said Cherokee Nation on June 28, 1898.

It appears from affidavits, made a part of the record herein, that the applicant George Johnson died in January, 1902; that the applicant Eliza Grooms died in October, 1901; and that the applicant Ennis Grooms died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902 (32 Stats., 716), provides:

> "The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefor , the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, as Cherokee Freedmen, be and the same are hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Chairman.

T. B. Needles.
Commissioner.

Commissioner.

T. L. Stanley.
Commissioner.

Muskogee, Indian Territory,

this SEP 5 1903

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Jane Webb,

Bluejacket, I.T.
Cherokee F-D-221
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F.D-220,
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

COPY.

Cherokee Freedmen
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John W. Nash, Allie Nash, Jesse M. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. ADDOLRS,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Trea. D-58.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

Cherokee Freedmen
D-221

Muskogee, Indian Territory, September 30, 1903.

Jane Webb,

Bluejacket, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commission Chairman.

Register.
Enc. D-73

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Dennis Crooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby.

Chairman.

Enc. D-6

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 22, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Lauretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucker applied for the enrollment of herself and minor children, Glen Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Carrie ... Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and minor child. McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Crooms, who died in October 1901 and Ennis Crooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Hanes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the Nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned [illegible] the year 1866.

Ella Hanes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Henry Lumpkin, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Greene, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Gesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrant the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D 221.

Muskogee, Indian Territory, April 18, 1904.

Jane Webb,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 1[illegible], 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nelle, Ava, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Berry and Edward Nash, Harris and Delilah Harris, Ella Jones, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah Rucker, Glen Martin, Anna and Henrietta Dean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Nane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ----------George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304---------- Robert Harper,
F--389---------- Mary Robbins, et al.,
F-1414---------- Houston West, et al.,
F-1415---------- George West, et al.,
F-1416---------- Callis West,
F-1417---------- Callis West,
F-1494---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinely Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leutetha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5 , 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16,1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 16, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record , and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer an and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental bried filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

Freedmen approved by the Department September 15, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James, Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as as witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearingsis so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

--Copy--

JFJr

DEPARTMENT OF THE INTERIOR,

LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1282

Muskogee, Indian Territory, March 7, 1907.

Jane Webb,

Bluejacket, Indian territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

JMH

Commissioner.

COPY

Cherokee F
1281 et al.

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Wash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John W. Wash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Wash	Cherokee freedman 1290
Edward Wash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907.

I.T.
47948-1907.

DEPARTMENT OF THE INTERIOR, GAW
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

May 29, 1907.

The Commissioner
to the Five Civilized Tribes,
Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,
(Signed) C. F. Larrabee,
Acting Commissioner.

GAW-GH.

Cherokee F 1282

Muskogee, Indian Territory, June 8, 1907.

Jane Webb,

Bluejacket, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-2. Acting Commissioner.

S.W.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for the enrollment of her daughter, MARY MAYBERRY, as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q How old are you, 61 years years of age? A Yes, sir.
Q Your post office? A Bluejacket.
Q You apply for the enrollment of your daughter, Mary? A Yes,sir.
Q How old is she? A She is on there (referring to paper), 18 they say.
Q What is her post office address? A Bluejacket.
Q Is she married? A Yes, sir.
Q What is the name of her husband? A Bill Mayberry.
Q Is he a citizen? A No, sir.
Q Has Mary any children? A No, sir.
Q Just apply for the enrollment of herself? A Yes, sir.
Q Has she been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q You are her mother are you? A Yes, sir.
Q What is the reason she is not here herself? A She can't come here, she is confined.
Q Has she always lived in the Cherokee Nation? A Always been with me all her life, don't know the States, she ain't never been up there.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicant:

Q How long has she been married? A Been married.
Q Don't you know? A I don't know.

BY COMMISSIONER NEEDLES)

Q About three years, is that right? A Yes, sir.
Q Was she ever married before? A No, sir.
Q What was her name before she was married? A Mary Nash.
Q What was her father's name? A Henry Nash.
Q Is Henry Nash living? A No, sir.
Q Is she your grand-daughter? A she is my daughter.
Q How did her name happen to be Nash? A Well my man was named Nash, I was married once before this.
Q Is Nash your first husband? A Yes, sir.

BY MR. SMITH:

Q Was she on the Clifton-Kerns Roll? A Yes, sir.

The Kerns-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3972, Mary Nash, Cooweescoowee.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married to this girl's father?
A Married in Texas.
Q In what year? A I don't know.
Q How long before she was born? A She was not born until all the rest of the children has been, Mary, John,Julia and all of them Mary is the youngest, baby child, Dave he died.
Q Baby child, Dave, he died? A Yes, sir.
Q Where did your husband die? A Down there at Mr. Jenkins.
Q Did your husband come back with you? A Yes, sir, come back here but he was not with me, he come afterwards.
Q Where did you marry Gaines? A Up here on the Hill.

BY COMMISSIONER NEEDLES:

Q where was Mary Nahs born? A She was born down on Mr. Jenkins, on Big Cabin Creek.
Q Cherokee Nation? A Yes, sir.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of her daughter, Mary Mayberry and she makes satisfactory proof as to the fact that Mary Mayberry is not in physical condition to appear before the Commission at this time. She avers that Mary Mayberry is her childxx by a husband named Henry Nash, and that the said Mary Mayberry is now married to one William Mayberry, a non-citizen, and the name of Mary Mayberry is found upon the Kerns-Clifton roll as Mary Nash, her maiden name. Satisfactory proof is made as to her residence. By agreement of the Counselsfor the Applicant and on behalf of the Cherokee Nation the testimony taken in the case of Eliza Gaines for enrollment, on D. Card #220, and the testimony taken in the case of Berry Thompson, D.#223, is hereby referred to and made part of the record in this case. The name of said Mary Mayberry will now be placed upon a doubtful card for the further consideration by the Commission. When the Commission decides as to her citizenship she will be notified by mail. If she desires at any time to introduce any additional testimony in her case, the same will be received.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

C H Needles

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 9 1901
Acting Chairman

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9th 1901.

Post Office

District

Name Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Name of wife Mary Mayberry Age 18

Owner's name Citizenship

Year Page 161 No. 3972 District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by Eliza Gaines (mother) Stenographer J. C. Rosson

No. 1 Ark Freed's roll as Mary Nash

XI / 1220

FD 222

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
9 1901

ACTING CHAIRMAN

Blue Jacket I.T.
May 6th 1901

To the Hon Dawes Commission,
Vinita I.T.

This is to certify that Mrs Mary Matey (Dennash) on account of ill health is unable to appear before the Commission.

[illegible] Smith M.D.

To be filed with the case of Mary Mayberry, F.-D.#222:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office addres? A Bluejacket.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? 14.
Q The next one? A Leo.
Q How old is Leo? A 13.
Q The nes one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe? A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No response.)
Q Kinda half way? A Yes, sir, just like the rest of them.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes, sir.
Q Is it on the Kerns-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of marriage? A Yes, sir.
Q Whom can you prove your marriage by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post offic address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Q Did you see him marry them? A Yes, sir.
Q Was Bluejacket a minister? A Yes, sir, Uncle Charley Bluajacket
Q Have they been living together as man and wife ever since their marriage? A Yes, sir.
Q Is Bell Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes, three.
Q Born to them while they were living together as man and wife? A Yes, sir:
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, re-called, testified as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for applicant:

Q How old didyou say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes sir.
Q Have you a farm? A Yes, sir.
Q Where is t? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q you say you are on the Kerns-Clifton roll? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You have heard the statement of your sister, Eliza and sister, Jane; did you go the rounds with them? A Yes, sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked in Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I worked up there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage? A I worked out a good deal of the time, worked at Vinita some, I lived with my mother.
Q What was your mother's name? A Mary Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is our mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, CooweescooweeDistrict.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist.

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kerns-Clifton Pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the Counsels in this case, the record in the case of Eliza Gaines, D.#220, is referred to and made part of the record in this case. The names of Berry Thompson and his three children as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Co mission is arrived at he will be notified by mail. ve he desires at any time to intr oduce any further evidence in his case, the same will be received.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilize Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being duly sworn as stenogr pher to the Commission to the Five Civilized Tribes, states that the above nd foregoing is a true and complete copy of the transcript and proceedings in the case of Berry Thompson, et al.; said original transcript having been made by me as stenographer.

J O Rosson

Subscribed and sworn to before me this 13th day of May, 1901.

C R Breckinridge

Commissioner.

To be filed in case of Mary Mayberry, F.-D.#222.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., may 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it? (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Hav you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authories as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there. (Referring to paper.)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 CensusRoll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kerns-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 160, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicant:

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to, what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton roll? A I guess I am on it, you will have to look to see.

BY W. W. HASTINGS, Cherokee Representative:

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chicksasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.

Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.
Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.
Q How ong did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel again.
Q About how long? A I guess it was about nearly, over six months, a year; we stayed there and drawed rations.
Q whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q what dhildren did you have at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Who did you work for at Fort Gibson? A I washed for the soldier
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewhers where the old Fort had been and there was coffins there and any wayI know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A Stayed until along in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1868 when you stayed up at Holey Bell?s? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, eight across the line.
Q You didn't go into the State of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
A Yes, sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q No , how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A Yes, sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family ddd he? A Yes, sir, he had four in his family his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A I don't know, he hired us to work.
Q Have you ever lived in Kansas since the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timbered Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluekacket?
A Yes, sir.
Q what disrection is that, is it on the Cooweescoowee side?
A Yes, sir.
Q Towards the sunset from Bluejacket? A Yes, sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Did these children go with you? A They was with me some and I had some hired out.
Q You stayed about three or four years at the Larkins place?
Q Yes, sir

Q Did you have any neighbors around there? A There was no neighbors but one family.
Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa ware you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir.
Q were you living there when the railroad come there? A No, sir, wasn't no reailroad, living there long before the railroad was built.
Q You were living there when the railroad was bui lt? A Yes, sir, there wasn't no houses when the railroad come through.
Q Were you living at Larkins when the railroad come there? A Yes, sir.
Q Now, Aunty, how far from the railroad track, the M. K. &T., were you living A I don't know, we could not hear the t rain.
Q On the South of the track? A That was on this side of the tract, over in Coowescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Julia Nash, Lizzie, Georgia ANN, Malinda, Ettq, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? (No response.)
Q You don't mean that any of those whose names you give are dead? A No, sir.
Q Do they go by this name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Com issioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash, or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I hav known her some wbers about in '66.
Q Where did you know her? A When I first known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir, Yes, sir; I went out of the Cherokee Nation, but I was in the Terrutory, the Choctaws.
Q The choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation? A Yes, sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come bac in, along, in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about

the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back?
A Along in the summer, spring like.
Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called there, that winter and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q Do you know her children, know what their names are all of them, or not? A No, sir; I don't know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. Chambers?
A No, sir, I seen her there as much as twice I know of; It was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer? A Yes, sir; after I come up from Fort Smith I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there, you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A Yes, sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865?
A Yes, sir.
Q And say it was the next winter you saw her? A Yes, sir, I styaed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I stayed there all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A Yes, sir.
Q You remember seeing her? A Yes, sir.
Q Well when did you next see her? A I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recall.
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere but, I heard of her living up by William Tucker's.
Q You never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several things.
Q How many times? A Twice, three times, one time for selling boys and the next time for sellin cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting a man.
Q What was done with you? A Never done anything with me.
Q Did they try you? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, turned me aloose and let me alone.

turned me aloose and let me go home.
Q Never was convicted? A No, sir.
Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lots others.
Q I mean of her family? A If I did I don't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office addrews? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH:

Q Do you know Eliza Gaines? A Yes, sir.
Q Sometimes called Nash? A I know her.
Q How long have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q Who was that? A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was at that time? A (No response.-
Q Where did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you know any of her family, any of her children?
A No, sir, I could not tell anything about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and If I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see? A Lydia that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.

BY W. W. HASTINGS:

Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stover's
Q How far was that from where you were living? A I trained horses right there by Wilsons.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
Q Nothing, just riding about getting drunk ; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there washing, I don't know where she was living.

Q How do you happen to remember seeing her? A I stopped there where she was and talked with her.
Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.
Q Where is that? A I don't know, which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tuckers.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it my have been a year or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q ~~About how~~ She moved from where she lived on Cabin Creek to where she lies now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Blusjacket.
Q Jim, were you ever tried for anything by the Courts? A No, sir.
Q Never was arrested? A No, sir, not by Courts, I was not.
Q By Marshalls? A No, sir, I used to be a Marshall myself, I never was arrested for any crime of any kind, never was.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880, or any rolls now in the possession of this Commission, except the Kerns-Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

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J.O Rosson being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being duly sworn as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete copy of the original transcript of the testimony and proceedings in said case.

J O Rosson

Subscribed and sworn to before me this 13th day of May, 1901.

C R Breckinridge

Commissioner.

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COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Mary Mayberry for enrollment as a Freedwoman of the Cherokee Nation, one copy of the original testimony, May 9th, 1901, one copy of original testimony, May 9th, 1901, from case of Eliza Gains and one copy of original testimony, May 9th, 1901, from case of Berry Thompson. The testimony in the two cases named have been made a part of the record in the case of the Applicant.

Mellette Smith

Attorney for Applicant.

Cherokee #D222.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
10 1901

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Mary Anderson
for enrollment as Cherokee Freedmen:
Case No. F. 1522.
To Mary Anderson or to Pollette & Smith her attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, on Oct. 12th, 1901, at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Oct. 9th, 1901.

L B Bell

W. W. Hastings

Jas. S. Davenport

Attorneys for the Cherokee Nation.

File with case of Mary Mayberry, C.F.-D.#222.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
Q When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~xxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Herewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A well, my range extendedfrom Neosho river over to the he d of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that hi s testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q when.you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquaint d with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country.

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Q~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT:

Witness: L. B. Bell; 62; Vinita.

Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from? A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directly about where they had come from, or as to whether they had just came into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.

MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q. Well, now, when you see Eliza Gaines after the war? A. I don't know that I ever saw Eliza Gaines after the war.
Q. Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A. I guess I did.
Q. When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q. When did you say you saw them? A. In '68 I don't remember that I had any corn before that.
Q. I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in XXXXX Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/
Subscribed and sworn to before me this September 11th, 1889.
John W. Wallace, Commissi oner."

A. The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q. Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A. I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q. You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A. It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q. Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A. Yes, sir.
Q. was she a Cherokee Indian? A. Yes, sir, she was John Stover's daughter.
Q. Is she dead or alive? A. She is dead I think she resided in this town here.
Q. I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#242, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 221, Mary Mayberry.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Hellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 20th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,)	
	Eliza Stover,)	
	Jane Stover,)	PETITION FOR CITIZENSHIP.
	Berry Stover,)	
	Lydia Stover,)	
	Angelina Stover,)	J. M. Bryan,
	Mary Stover,)	Atty for Claimant.
	vs)	
	Cherokee Nation.)	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 20th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B. O. Jones
Notary Public.

Cherokee Freedmen D-222.

MARRIAGE LICENSE.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY,)ss
NORTHERN DISTRICT.)

NO.697.

TO ANY PERSON AUTHORIZED BY LAW TO SOLEMNIZE MARRIAGE----GREETING:

YOU ARE HEREBY COMMANDED to Solemnize the Rite and publish the Banns of Matrimony between Mr. W. B. Mabry of Bluejacket, in the Indian Territory, age d 58 years, and Miss Mary Nash of Bluejacket, in the Indian Territory, aged 17 years, according to law and do you officially sign and return this License to the parties therein named.

WITNESS my hand and official seal at Vinita, Indian Territory, this 1st day of September, A. D.1898.

Jas. A. Winston,
Clerk of the U. S. Court.

By J. C. Anderson, Deputy.

CERTIFICATE OF MARRIAGE.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY,)ss
NORTHERN DISTRICT.)

I, Rev. G. W. Weaver, a Minister of the Gospel, DO HEREBY CERTIFY, that on the 5 day of September, A. D.1898, I did duly and according to law as commanded in the foregoing License, solemnize the Rite and publish the Banns of Matrimony between the parties therein named.

WITNESS my hand this 19 day of Oct.A. D.1898.

My credentials are recorded in the Office of the Clerk of the United States Court, Indian Territory, Northern District, Book-------Page-----.

G. W. Weaver,
A Minister of the Gospel.

CERTIFICATE OF RECORD.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY,)ss
NORTHERN DISTRICT.)

I, James A. Winston, Clerk of the United States Court in the Northern District, Indian Territory, do hereby certify that the instrument hereto attached was filed for record in my office the 22 day of Dec.1898, at ----M., and duly recorded in Book "G" Marriage Record, Page 324.

WITNESS my hand and seal of said Court at Muscogee, Ind. Ter., in said Territory this 23 day of Dec. A.D.1898.

Jas. A. Winston,
Clerk.

By----------Deputy.

I, Ray Palmer, as stenographer to the Commission to the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and complete copy of the original.

Ray Palmer

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220 - 1281
Jane Webb	Cherokee Freedmen D-221 - 1282
Mary Mabry et al	Cherokee Freedmen D 222 1283
Berry Thompson et al	Cherokee Freedmen D 223 1284
Julia Nash	Cherokee Freedmen D 224 - 1285
Georgia Jones et al	Cherokee Freedmen D 225 - 1286
John H. Nash et al	Cherokee Freedmen D 226 - 1287
Malinda Johnson et al	Cherokee Freedmen D 227 1288
9233 Eliza Grooms et al	Cherokee Freedmen D 228 1289
Berry Nash	Cherokee Freedmen D 229 1290
Edward Nash	Cherokee Freedmen D 230 1291
Carrie Harris et al	Cherokee Freedmen D 231 1292
Ella Humes	Cherokee Freedmen D 232 1293
Aaron Martin	Cherokee Freedmen D 233 1294
Michael Martin	Cherokee Freedmen D 236 1295
George Martin et al	Cherokee Freedmen D 237 1296
Joshua Martin	Cherokee Freedmen D 238 1297
Edward Brown et al	Cherokee Freedmen D 247 1298
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 516
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Groom for herself and minor children, Martha, Dora, Peter W., Lorretha and Emma Groom; by Henry Nash for himself; by Edward Nash for himself; by Curtis Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Howard Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lettie Martin; by Nellie Brown for herself and minor children, Ronie, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Clem Martin, Anna Brownlow, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lydia Carter for herself; by Allie McIlroy, for herself and minor child, Etta Taylor; by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellen Gaines, Jane Webb, Henry Thompson, Louisa Carter, Aaron Martin, George Martin, Israel Martin, Julia and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 18[illegible].

The evidence further shows that Ella Hunter is the daughter of Rosa Lange, sister of Ellen Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rosa Lange was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 18[illegible].

The said Alice Martin is duly identified in the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 18[illegible], or from date of birth where born since the year 18[illegible], up to and including the date of the application herein, except on occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 18[illegible].

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in December, 1900, and that the applicant, Ellen Groom, died in October, 1901; and that the applicant, Emma Groom, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed on September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Caines, Jane Webb, Mary Labry, Frank Labry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Lucie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lourotha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Harrie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Monie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah E. Tucker, Lydia Carter, Allie McIlroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Emma Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. E. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 1-1907.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mrs. Mary Mayberry,
Bluejacket, I.T.
Cherokee F-D-222
Register.

Freedman D-222.

Muskogee, Indian Territory, June 7, 1902.

Mary Mabry,

Bluejacket, Indian Territory.

Dear Madam:

When application was made for your enrollment as a Cherokee Freedman the Commission was advised that your name was Mary Mayberry. The Commission is now in receipt of an affidavit as to the birth of your child Frank, in which your name appears as Mary Mabry.

You are requested to advise the Commission immediately under what name you desire to be enrolled.

Yours truly,

Acting Chairman.

...ED.

COMMISSION TO FIVE TRIBES.

No. 9703

Received ...

1902

CHEROKEE.

Mabry, Mary,
Bluejacket, I. T.,
June 16, 1902.

Says Frank Mabry is her child, and her name is "Mabry" not "Mayberry."

1/D222

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUN 18 1902

Acting Chairman

R. A. ABNEY, MGR.
AFTON, I. T.

J. W. DOUTHITT, MGR.
J. W. DOUTHITT & CO.
BLUEJACKET, I. T.

G. W. BECK, MGR.
WELOB, I. T.

G. W. [illegible]
MIAMI, I. T.

THE FOUR STORES.

J. W. DOUTHITT & CO.

GENERAL MERCHANDISE.

WE BUY FOR CASH AND SELL FOR CASH.

BLUEJACKET, IND. TER., June 16 1902

Thos T Bixby
Muskogee I. T.
Dear Sir,

Relating to your kind favor of June 1st. I will say the child you refer to is my child Frank Haby born May 26th 1901 and should be enrolled as such and my name is Mary Haby instead of Mary Haworth. Kindly advise me if this correction will be made

Yours truly
Mary Haby

Chas. P. D-222.

Muskogee, Indian Territory, June 20, 1902.

Mary Mabry,

Bluejacket, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of the 16th instant, relative to your correct name.

The affidavit as to the birth of your child, Frank Mabry, heretofore received, has been filed, and your child listed for enrollment as a Cherokee Freedman with you on a doubtful card.

Your marriage license and certificate is returned to you herewith, copies having been made for the Commission's files.

Yours truly,

Commissioner in Charge.

Encl. 6-22.

Cherokee F.D.-220
etal.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Allen, Charlie, Lucie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Blind, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Rose, Peter W. and Lauretha Grocus, Henry and Edward Nash, Harvie and Delilah Harris, Ella Hames, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby,

Chairman.

Enc. D-6

COPY.

Cherokee Freedmen
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 8th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Estu Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MARBLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Minnie Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. 5-26.

COPY.

Cherokee Freedmen
D-222.

Muskogee, Indian Territory, September 30, 1903.

Eliza Gaines,

Bluejacket, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for the enrollment of your daughter, Mary Mabry, and her minor child, Frank Mabry, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished you by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles,

Chairman.

Register.
Enc. D-74

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 3, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa M. Sango, who was a sister of Eliza Gaines. Rosa M. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM

(Signed) A. C. Tonner.

5 enclosures.

Acting Commissioner.

D C 10862-1904.
ITD 853-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D 222

Muskogee, Indian Territory, April 18, 1904.

Mary Mabry,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your son, Frank Mabry, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, June Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, June and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greems, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ----------George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304---------- Robert Harper,
F--389---------- Mary Robbins, et al.,
F-1414---------- Houston West, et al.,
F-1415---------- George West, et al.,
F-1416---------- Callis West,
F-1417---------- Callis West,
F-1494---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interiss. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14,1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinely Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	LeuYetha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West Jr.,
4081	Cornelius West,
40 2	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088 ----------	Martha West.
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Number 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates , describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY.

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

Freedmen approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this pase prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll or citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War: that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Port Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Albery has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends thatthe motion filed on behalf of the Nation as to all of the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1283

Muskogee, Indian Territory, March 7, 1907.

Mary Mabry,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself, son and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

JMH

Commissioner.

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED T[illegible]

Commissioner.

Encl.M-21
JMH

COPY

Cherokee F.
1281 et al.

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Wash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Wash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Greems, et al.	Cherokee freedmen 1289
Berry Wash	Cherokee freedman 1290
Edward Wash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Nunes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedmen 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedmen 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MWP

Commissioner.

D.C.27557-1907.

I.T.
47948-1907.

DEPARTMENT OF THE INTERIOR, GAW
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

May 29, 1907.

The Commissioner
to the Five Civilized Tribes,
Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedman. You are requested to advise the interested parties of the action taken.

Very respectfully,
(Signed) C. F. Larrabee,
Acting Commissioner.

GAW-GH.

Cherokee F 1283.

Muskogee, Indian Territory, June 8, 1907.

Mary Mabry,

Bluejacket, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-3.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 18, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Coeweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old ~~the girl?~~ A 14.
Q The next one? A Leo.
Q How old is Leo? A 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enroled by any other Nation or tribe?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No response.)
Q Kinda half way? A Yes, sir, just like the rest of them.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Is it on the Kerns-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of marriage? A Yes, sir.
Q Whom can you prove your marriage by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Did you see him marry them? A Yes, sir.
Q Was Bluejacket a minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A Yes, sir.
Q Is Bell Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes, three.
Q Born to them while they were living together as man and wife?
A Yes, sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, re-called, testified as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicants:

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.

Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kerns-Clifton roll? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You have heard the statement of your sister, Eliza , and sister, Jane; did you go the rounds with them? A Yes, sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked in Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I worked up there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage? A I worked out a good deal of the time, worked at Vinita some, I lived with my mother.
Q What was your mother's name?? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was ot nor.
Q How long has it been since she died? A About 13 years

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicant's found thereon,as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison, Thompson, Cooweescoowee Dist.

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kerns-Clifton Pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the Counsels in this case, the record in the case of Eliza Gaines, D.#220,

is referred to and made part of the record in this case. The names of Berry Thompson and his three children as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

---oooOOOooo---

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rossen

Subscribed and sworn to before me this 10th day of May, 1901.

C. R. Breckinridge

Commissioner.

B.

FE 223

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
9 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Bluefield I.T.

District Coo

1. Name Berry Thompson Age 46

Owner's name Citizenship

Year K.C. Page 162 No. 4008 District Coo

Parents:

Father Citizenship

Mother Mary Flower – dead, Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Doubtful

Names of Children:

2. Elmer Thompson Year K.C. Page 162 No. 4009 Dist. Coo 14
3. Lee, " Year " Page 162 No. 4010 Dist. " 13
4. Morrison " Year " Page 62 No. 4011 Dist. " 10
5.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by Mr. Stenographer J. D. Rosson

1 On K.C. roll as Jerry Thompson

3 " " " " " Lee " "

X Ref. to D 220

Mellette and Smith Attys. for applicants.

To be filed with case of Georgia Jones, et al., F.-D.#225:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it? (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes,sir.
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don' know.
Q Who do you want to enroll besides yourself?
A Myself.
Q How many children? A They are on there. (Referring to paper.)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kerns-Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorney for Applicant:

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to? what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton roll? A I guess I am on it, you will have to look to see.

BY W. W. HASTINGS, Cherokee Representative:

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.

Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel again.
Q About how long? A I guess it was about near, over six months, a year; we stayed there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q What children did you have at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Whom did you work for at Fort Gibson? A I washed for the soldiers.
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A Syayed until along in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, right across the line.
Q You didn't go into the State of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
A Yes, sir, on what they call.
Q Now, whom did you work for u there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A Yes, sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? A Yes, sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A I don't know, he hired us to work.
Q Have you ever lived in Kansas since the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timbered Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket?
A Yes, sir.
Q What direction is that, is it on the Cooweescoowee side?
A Yes, sir.
Q Towards the sunset from Bluejacket? A Yes, sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You stayed about three or four years at the Larkins place?
A Yes, sir.
Q Did you have any neighbors around there? A There was no neighbors but one family.

Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir.
Q Were you living there when the railroad come there? A No, sir, wasn't no railroad, living there long before the railroad was built.
Q You were living there when the railroad was built? A Yes, sir, wasn't no houses when the railroad come through.
Q Were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now, Aunty, how far from the railroad track, the M. J. & T., were you living? A I don't know, we could not hear the train.
Q On the south side of the track? A That was on this side of the track, over in Cooweescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Joulia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? (No response.)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by this name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Marline Johnson, and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I first known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll, or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir; Yes, sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come bac in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come back in, a long, in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.

Q About what season of the year was it you got back? A Along in the summer, Spring like.
Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called there, that winter and the next winter, come in the same winter, that is right the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q Do you know her children, know what their names are all of them, or not? A No, sir; I don't know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Governemtn rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. Chambers?
A No, sir, I seen her there as much as twice I know of; It was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer? A Yes, sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A Yes, sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865?
A Yes, sir.
Q And say it was the next winter you saw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I stayed there all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A Yes, sir.
Q You remember seeing her? A Yes sir.
Q Well when did you next see her? A I seen her again a short time after that, I saw her there in a store the next time I saw her.
Q Whose store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recall
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere but, I heard of her living up by William Tucker's.
Q You never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several thing .
Q How many times? A Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A Never done anything with me.
Q Did they try you? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, turned me aloose and let me go home.
Q Never was convicted? A No, sir.

Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lotsothers.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH:

Q Do you know Eliza Gaines? A Yes, sir.
Q Some times called Nash? A I know her.
Q How long have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q What was that? A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66, before the treaty was made.
Q Did you know where Eliza Nash was at that time? (No response.)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you kno3 any of her family, any of her children?
A No, sir, I could not tell anythi ng about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and If I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see? A Lydia that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.

BY W. W. HASTINGS:

Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stovers
Q How far war that from where you were living? A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there washing, I don't know where she was living.
Q How do you happen to remember seeing her? A I stopped there where she was and talked with her.
Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.

Q Where is that? A I don't know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tucker's.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it may have been a year or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from where she lived on Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Bluejacket.
Q Him, were you ever tried for anything by the Court? A No, sir.
Q Never was arrested? A No, sir, not by the Courts, I was not.
Q By Marshalls? A No, sir, I used to be a Marshall myself, I never was arrested for any crime of any kind, never was.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880 or any rolls not in the possession of this Commission except the Kerns-Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known the applicant at her post office address by due course of mail. If at any time she desiresto introduce any additional testimony the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn, as stenographer to the Commission to the Five Civilized Tribes states that the above and foregoing is a true and complete copy of the original transcript of the testimony and proceedings in the case of Eliza Gaines; said original transcript having been made by me as stenographer.

J O Rosson

Subscribed and sworn to before me this 20th day of May, 1901.

C R B

Commissioner.

To be filed with the case of Georgia Jones, et al., F.-D.#225.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo.
Q How old is Leo? A 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever applied to be enrolled by any other Nation or tribe? A No, sir.
Q Have you ever been recognizedby the Cherokee authorities as a Freedman? (No response.)
Q Knda Half way? A Yes, sir, just like the rest of them.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes, sir.
Q Is it on the Kerns-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you an roof of marriage? A Yes, sir.
Q Whom can you prove your marria e by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Was Bluejacket a Minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A Yes, sir.
Q Did you see him marry them A Yes, sir.
Q Is Bell Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes, three.
Q Born to when they were living together as man and wife? A Yes, sir.
Q What are the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, re-called, restified as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicants:

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kerns-Clifton roll? A Yes sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You have heard the statement of your sister, Eliza and sister, Jane; did you go the rounds with them? A Yes, sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked in Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twnety miles.
Q How long did you work up there? A I workedup there off and on, cooked; I was up there three months I guess.
Q You were marriedin the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage? A I worked out a good deal of the time, worked at Vinita some, I lived with my mother.
Q What was your mother's name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist:

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kerns-Clifton Pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence.

By agreement of the Counsels in this case, the record in the case of Eliza Gaines, D.#220, is referred to and made part of the record in this case. The names of Berry Thomspon and his three children as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the dicision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimonh and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized tribes, he made the above and foregoing copy of the original transcript of the testimony and proceedings in the case of Berry Thompson, et al., and that the above and foregoing is a true and complete copy of the same.

J O Rosson

Subscribed and sworn to before me this 20th day of May, 1901.

Commissioner.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Berry Thompson et al for enrollment as Freedmen of the Cherokee Nation, one copy of the original testimony, May 9th, 1901 and one copy of the original testimony of May 9th, 1901, from case of Eliza Gains, which was made a part of the record in the case of the Applicant.

Mellett & Smith
Attorney for Applicaant.

Cherokee #D223.

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14 D. 223

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

by delivering a true copy thereof on the .....day of ..... A. D. 1901.

Given under my hand this..... day ..... A. D. 1901.

.....
Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the ..... day of ..... , 1901.

McClelle & Smith
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the..... day of A.D.1901

.....

Subscribed and sworn to before me this..... day of..... A.D.1901.

.....

COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 13 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Berry Thompson for enrollment as a Cherokee Freedman:

Case No. F. D. 223

To Berry Thompson or Mellette & Smith his attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct. 12th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 13 1901 day of , 1901.

[illegible]

[illegible]

J. C. Davenport

Attorneys for the Cherokee Nation.

File with case of Berry Thompson, et al., C.F.-D.#223.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~improve~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 years old.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the Cherokee Nation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United states citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q An land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right where about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Craig? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Q~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time they got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissioner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 222, Berry Thompson.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 26th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,	
	Eliza Stover,	
	Jane Stover,	PETITION FOR CITIZENSHIP.
	Berry Stover,	
	Lydia Stover,	
	Angelina Stover,	J. H. Bryan,
	Mary Stover,	Atty for Claimant.
	vs	
	Cherokee Nation.	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 26th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bossy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-210. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1903.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B O Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Berry Thompson, D 223;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly stremuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1895, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR?
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 507
Nellie Brown et al	Cherokee Freedmen D 515
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

I

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ellis Groens for herself and minor children, Martha, Dora, Peter W., Lorretha and Ennis Groens; by Perry Nash for himself; by Edward Nash for himself; by Carris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Linnie, and minor children, Maggie, Lorna, Laura and Lottie Martin; by Nellie Brown for herself and minor children, Ross, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Olen Martin, [illegible], Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lydia Carter for herself; by Allie McIlroy, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellis Gaines, Jane Webb, Perry Nash, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Johnson and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 18[illegible].

The evidence further shows that Ella Hunter is the daughter of Cora Range, sister of Ellis Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Cora Range was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 18[illegible].

The said Alice Martin is full indian as shown in the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 18[illegible], or from date of birth where born since the year 18[illegible], up to and including the date of the application herein, except for occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 18[illegible].

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1901; that the applicant, Ellis Groens, died in October, 1901; and that the applicant, Ennis Groens, died in August, 190[illegible].

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and one, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Labry, Frank Labry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Hash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Melinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Rona Grooms, Peter W. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Monie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Nettie Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 5-1906.

20 F 637.

IN RE

Application for Enrollment of

INFANT CHILD

Etha L. J. Thompson

as a citizen of

Cherokee Nation

BCJ

Approved May 21 1904

(Signed) C.R.Breckinridge

Commissioner.

DEPARTMENT OF THE INTERIO
COMMISSION TO THE FIVE CIVILIZED
FILED
MAY 21 1904
Tams Bixby,

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,

of Etha L. J. Thompson (Here insert name of child.), born on the 12th day of December, 1897

Name of Father: William Thompson a citizen of the Cherokee Nation.

Name of Mother: Sarah Parris a citizen of the U. S. ~~Nation~~

Postoffice Muskogee, I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Western DISTRICT.

I, Sarah Parris, on oath state that I am thirty-six years of age and a citizen ~~by~~, of the U. S. ~~Nation;~~ that I ~~am~~ was the lawful wife of William Thompson, who is a citizen, by blood, of the Cherokee Nation; that a female (Male or Female.) child was born to me on 12th day of December, 1897; that said child has been named Etha L. J. Thompson, and is now living.

(Signed) Sarah Parish

WITNESSES TO MARK:

(Must be Two Witnesses.)

Subscribed and sworn to before me this 16 day of May, 1904.

SEAL

(Signed) A. S. McRea
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Western DISTRICT.

I, Susan Cherry, a midwife, on oath state that I attended on Mrs. Sarah Thompson, wife of William Thompson on the 12 day of December, 1897; that there was born to her on said date a female (Male or Female.) child; that said child is now living and is said to have been named Etha L. J. Thompson

her
(Signed) Susan X Cherry
mark

WITNESSES TO MARK:

(Must be Two Witnesses.)
(Signed) D. A. Lee
" J.D.Johnson

Subscribed and sworn to before me this 18 day of May, 1904.

(Signed) David A. Lee
Notary Public.

SEAL

My commission expires July 7 1906

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of an affidavit as to the birth of Etha L. J. Thompson, filed in the matter of the application for her enrollment as a Cherokee Freedman.

Thos Ryan
Acting Commissioner to the Five Civilized Tribes.

By A. D. Moore
Clerk in Charge Cherokee Records.

January 4, 1911.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Berry Thompson,
Bluejacket, I.T.
Cherokee F-D-223
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee F.I-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Melinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Garrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

COPY.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby.

Chairman.

Enc. D-6

COPY.

Cherokee Freedmen
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 8th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Linnie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clay Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allis McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Groome and Ennis Groome.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MARQLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Willie, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Annis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

COPY

Cherokee Freedmen
D-228.

Muskogee, Indian Territory, September 30, 1903.

Berry Thompson,

Bluejacket, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for the enrollment of yourself and minor children, Elmer, Leo and Morrison Thompson, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Noddles.

Commissioner in charge.
Chairman.

Enc. D-75
Register.

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee Freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

(Signed) A. C. Tonner.

Acting Commissioner.

GAW/LM

5 enclosures.

D C 10862-1904.
ITD 833-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D 223

Muskogee, Indian Territory, April 18, 1904.

Berry Thompson,

Bluejacket, Indian territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor children, Elmer, Lee and Morrison Thompson, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 1[illegible], 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Hane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Louretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thomson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Berry and Edward Nash, Harris and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greems, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ----------George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304---------- Robert Harper,
F--389---------- Mary Robbins, et al.,
F-1414---------- Houston West, et al.,
F-1415---------- George West, et al.,
F-1416---------- Callis West,
F-1417---------- Callis West,
F-1494---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interiss. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinely Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinely Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Greems,
3564	Dona Greems,
3565	Peter W. Greems,
3566	LeuVetha Greems,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israul Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West Jr.,
4081	Cornelius West,
40 2	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088 ----------	Martha West,
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were ma e a part of the record in the case prior to the rendition of a decision therein. None of the applican ts embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Number 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced pon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates , describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee freedmen

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

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approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shows that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

-Copy- JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906-, the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1284

Muskogee, Indian Territory, March 7, 1907.

Berry Thompson,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and children, among others, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

JMH

Commissioner.

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patton,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby,

Commissioner.

Encl.H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl. H-20
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Wash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John W. Wash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Wash	Cherokee freedman 1290
Edward Wash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

WWP

Commissioner.

D.C.27557-1907.

I.T.
47948-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GAW

May 29, 1907.

The Commissioner
to the Five Civilized Tribes,
Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,
(Signed) C. F. Larrabee,
Acting Commissioner.

GAW-GH.

Cherokee F 1284

Muskogee, Indian Territory, June 8, 1907.

Berry Thompson,

Bluejacket, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-4.
S.W.

Acting Commissioner.

Cherokee
F 1262 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1285

See Cher Fr 1281-1284

Cher Fr 1285

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Julia Nash for enrollment as a Cherokee Freedman; said Nash being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Julia Nash.
Q How old are you? A I don't know exactly how old I am .
Q Well, about how old? A About 26.
Q What is your post office address? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Did you ever apply to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Who do you desire to enroll besides yourself? A Nobody.
Q Just yourself? A Yes, sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on the Kerns-Clifton roll? A Yes, sir.
Q What is your father's name? A He is dead.
Q Well did he have a name before he died? A Yes, sir.
Q What was it? A Miller George is my father.
Q what is your mother's name? A Eliza Gaines.
Q She is living is she? A Yes, sir.

BY MR. SMITH, of the firm of Smith & Mellete, Attorneys for Applicant:

Q She is the Eliza Gaines who has just testified here in her own case a few minutes ago? A Yes, sir.
Q Where do you live? A Vinita.
Q How old are you? A 26.
Q Is Berry Thompson your uncle? A Yes, sir.
Q Do you know Jane webb? A Yes, sir.
Q Is she related to you? A Yes, sir.
Q What relation is she to you? A My aunt.

BY COM'R NEEDLES:

Q Are you married? A No, sir.
Q Have you ever been married? A Yes sir, once.
Q Is your husband living? A Yes, sir.
Q What is his name? A Henry Marshall.
Q Isn't you name Marshall now? A No, sir.

BY MR. SMITH:

Q You say you were enrolled by the Kerns-Clifton roll, do you know by what name you were enrolled? A Julia Nash.

BY MR. W. W. HASTINGS:

Q Somewhere suggested back there that you were over 26 years of age? A Well, I don't know.

BY COMMISSIONER NEEDLES;

Q Do you know if you are 40? A I guess I is.
Q You think that man knows more than you do? A I don't know.
BY MR. HASTINGS: I want to ask you where you were born? A Beaty's prairie.
Q were you born before the war? A I don't know.
Q You don't know then where you were born? A Only what I heard my mother say.

BY COM'R NEEDLES: What did your mama say? A She said I was born down on Beaty's prairie.
BY MR. HASTINGS: Where were you married? A Married in Kansas.
Q What town? A Oswego.
Q Did you have any children? A No, sir.
Q How long did you live with your husband? A Four years.
Q what was his occupation, what did he do? A Stone Mason.
Q He worked at that trade? A Yes, sir.
Q worked there in Oswego? A Yes, sir.
Q Did you have a house there? A He had a house of his won.
Q You lived with him there four years? A Yes, sir.
Q How long did you know him before you married him? A I saw him down here.
Q Did you ever live in any other town in Kansas Besides Oswego? A No, sir.
Q After you qu9t him you come back to the Territory? A Yes, sir.
Q About how long have you been back here? A I don't really know.
Q About how long has it been since you quit your husband? A Been four years since I quit him, been back here ever since.
Q You never had any children? A No, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The Kerns-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 167, #4112, Julia Nash, Cooweescoowee District.

COM'R NEEDLES:--Julia Nash applies for the enrollment of herself. Upon examination of the authenticated roll of 1880 her name is not found thereon, and her name is found upon the Kerns-Clifton pay roll and she is duly identified thereby and makes satisfactory proof as to residence. By agreement of Counsels on behald of the applicant and the Cherokee Nation the testimony taken in the case of the application of Eliza Gaines, on D. Card #220, and that of Berry Thompson, on D. Card #223, is regerred to in this case and made a part of the record in this case. She will now be listed for enrollment as a Cherokee Freedman upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at she will be notified of the sameby mail.

---oo0000oo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transdript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

C. A. Mechem

Commissioner.

B

7 D 224

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 9 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Spavinaw I.T.

District Coo

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife Julia Nash Age ~~26~~ 36

Owner's name ..... Citizenship .....

Year R and C Page 167 No. 412 District Coo

Parents:

Father Miller George - dead Citizenship .....

Mother Eliza Grimes - living Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....
4. ..... Year ..... Page ..... No. ..... Dist. .....
5. ..... Year ..... Page ..... No. ..... Dist. .....
6. ..... Year ..... Page ..... No. ..... Dist. .....
7. ..... Year ..... Page ..... No. ..... Dist. .....
8. ..... Year ..... Page ..... No. ..... Dist. .....
9. ..... Year ..... Page ..... No. ..... Dist. .....
10. ..... Year ..... Page ..... No. ..... Dist. .....
11. ..... Year ..... Page ..... No. ..... Dist. .....
12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by No. 1 Stenographer A. C. Rosson

X Ref. D 220

Smith and Mellette, Atty's for applicant.

To be filed with the case of Julia Nash, F.-D.#224.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it. (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there? (Referring to papers)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kerns-Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicant:

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistreas was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton roll? A I guess I am on it, you will have to look to see.

BY W. W. HASTINGS, Cherokee Representative:

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Cheickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.

at that time.
Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel again.
Q About how long? A I guess it was about nearly, over six months, a year; we stayed there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q What children did you have at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Who did you work for at Fort Gibson? A I washed for the soldiers.
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewhers where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him:
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A Stayed until along in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, right across the line.
Q You didn't go into the state of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
Yes, sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A Yes, sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? A Yes, sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation?
A I don't know, he hired us to work.
Q Have you ever lived in Kansas since the war? ? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timbered Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket?
A Yes, sir:
Q What direction is that, is it on the Coweescoowe side?
A Yes, sir.
Q Towards the sunset from Bluejacket? A Yes, sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You stayed about three or four years at the Larkins place?
A Yes, sir.
Q Did you have any neighbors around there? A There was no neighbors but one family.

Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many miles to beest of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q Sout of Chetopa? Yes, sir.
Q Were you living there when the railroad come there? A No, sir, wasn't no railroad, living there long before the railroad was built.
Q You were living there when the railroad was built? A Yes, sir, there wasn't no houses when the railroad come through.
Q Were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now, Aunty, how far from the railroad tract, the M. K. & T., were you living? A I don't know, we cou ld not hear the train.
Q On the south of the tract? A That was on this side of the track, over in Cooweescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Julia Nash, Lizzie Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? A(No response.)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by this name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash or Eliza Gaines? A Yes, ir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I first known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll, or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir/ yes, sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come back in '65; I come back in '65, this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see ElizaNash or Eliza Gaines? A Well I come back in, along in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter, about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.

Q About what season of the year was it you got back? A Along in the summer, spring like.
Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called there, that winter and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q Do you know her children, know what their names are all of them, or not? A No, sir; I don't know, I never seen any of the children the, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. Chambers?
A No, sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer? A Yes, sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A Yes, sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865?
A Yes, sir.
Q And say it was the next winter you saw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I stayed there all fall and that fall I wen down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to nitice women.
Q And you noticed her among all that bunch? A Yes, sir.
Q You remembered seeing her? A Yes, sir.
Q Well when did you next see her? A I seen her again a short time after that, I saw her there in a store the next time I saw her.
Q Whose store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recall
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson A Four or five years.
Q You don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere but, I heard of her living up by William Tucker's.
Q You never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several things.
Q How many times? A Twice, three times, one time for seeling bows and the next time for selling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A Never done anything with me.
Q Did they try you? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, turned me aloose and let me go home.
Q Never was convicted? A No, sir.

Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lots others.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH:

Q Do you know Eliza Gaines? A Yes, sir.
Q Sometimes called Nash? A I know her.
Q How long have you know her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q Who was that? A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was at that time? (Noresponse.)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A IN '66.
Q Can you state at what time it was? A In the fall.
Q Di you know any of her family, any of her children? A No, sir, I could not tell anything about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane was one and if I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see? A Lydia that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.

BY W. W. HASTINGS:

Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir; I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stover's
Q How far was that from where you were living? A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there washing, I don't know where she was living.
Q How do you happen to remember seeing her? A I stopped there where she was and talked with her.

Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.
Q Where is that? A I don't know which way it is fro here.
Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tucker's.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it may have been a year or maybe more.
Q She was living up there then? A Yes sir, in the house not far from Mr. Tucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from where she lived on Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Bluejacket.
Q Jim, were you ever tried for anything by the Courts? A No, sir.
Q Never was arrested? A No, sir, not by Courts, I was not.
Q By Marshalls? A No, sir, I used to be a Marshall myself, I never was arrested for any crime of any kind, never was.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880, or any rolls now in the possession of this Commission except the Kerns-Clifton roll, and her name is found there n according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn as stenographer to the Commission to the Five Civilized Tribes, states that the above and foregoing is a true and complete copy of the original transcript of the testimony and proceedings in the case of Eliza Gaines; said original transcript having been made by me as stenographer.

J O Rosson

Subscribed and sworn to before me this May 14th, 1901.

C R Breckinridge

Commissioner.

To be filed in the case of Julia Nash, D.#224, Freedman.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE F VE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, - testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A - Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo
Q How old is Leo? A 13
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe? A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No response.)
Q Kinda half way? A Yes, sir, just like the rest of them.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes, sir.
Q Is it on the Kerns-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of marriage? A Yes, sir.
Q Whom can you prove yourmarriage by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Did you see him marry them? A Yes, sir.
Q Was Bluejacket a Minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A Yes, sir.
Q Is Bell Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes, three.
Q Born to them while they were living together as man and wife? A Yes, sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, re-called, testified as follows; EXAMINATION BY MR SMITH, of the Firm of Smith & Mellette, Attorneys for Applicants:

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nati on during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kerns-Clifton roll? A Yes, sir.

BY W. W. HASTINGS, Cherokee representative:

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You have heard the statement of your sister, Eliza, and sister, Jane; did you go the rouns with them? A Yes, sir.
Q Did you ever live in Kansas? A I workedup there.
Q Where? A I worked in Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I worked up there off and on, cooked; I was up there three months I guess.
Q You were marriedin the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage?
A I workedout a good deadl of the time, worked at Vinita some, I lived with my mother.
Q What was your motherUs name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicant's found thereon as follows:
Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist.

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Lee and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kerns-Clifton pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence.

By agreement of the Counsels in this case, the record in the case of Eliza Gaines, D.#220, is referred to and made part of the record in this case. The names of Berry Thompson and his three children as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn as stenographer to the Commission to the Five Civilized Tribes, states that the above and foregoing is a true and correct copy of the original transcript of the testimony and proceedings in the case of Berry Thompson, et al., said original transcript having been made by me as stenographer.

J. O. Rosson

Subscribed and sworn to before me this 20th day of May, 1901.

Commissioner.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Julia Nash for enrollment as a Freedwoman of the Cherokee Nation, one copy of the original testimony, May 9th, 1901, one copy of original testimony, May 9th, 1901, from case of Eliza Gains and copy of original testimony, May 9th, 1901, from case of Berry Thompson. The testimony in cases of Gains and Thompson has been made a part of the record in the case of the Applicant.

Mellette & Smith

Attorney for Applicant.

Cherokee F. #D224.

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FD 224

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on.....

.....

by delivering a true copy thereof on the .....day of.....A. D. 1901.

Given under my hand this..... day..... A. D. 1901.

.....
Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the ..... day of SEP 18 1901 1901.

Nicolette Sheell
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to.....

on the.....day of.....A.D.1901

.....

Subscribed and sworn to before me this.....day of.....A.D.1901.

.....

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 20 1901

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF The application of Julia Nash for enrollment as a Cherokee Freedman:

Case No. F. D. 224

To Julia Nash or Mellette & Smith her attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita, Indian Territory*, Indian Territory, on the following dates, to-wit: Oct. 12th A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 13 1901 day of , 1901.

L B Bell

L. H.

J. S. Davenport

Attorneys for the Cherokee Nation.

File with case of Julia Nash, C.F.-D.#224.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE bei ng duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, si r, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there i n '82.
Q Well, were you over the country where they located there, where their ~~xxxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Ti mbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquaint ed with Eliza Gai nes? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquaint ed with them when they first came up there about Bluejacket or not, do you? A I could not state positi ve when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the wor ld about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I believe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell Creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 years old.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When,& if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knew everybody, nea ly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Craig? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Where ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~[illegible]~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a milo west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vihita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Gabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time they got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. HELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation oBject to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to a l parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron know and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 223, Julia Nash.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cheroke Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 26th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,	)
	Eliza Stover,	)
	Jane Stover,	) PETITION FOR CITIZENSHIP.
	Berry Stover,	)
	Lydia Stover,	)
	Angelina Stover,	) J. M. Bryan,
	Mary Stover,	) Atty for Claimant.
	vs	)
	Cherokee Nation.	)

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cheroke Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Betsy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has hat been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans.

Subscribed and sworn to before me this 18th day of Aug., 1902.

B. O. Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 496, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Julia Nash, D 224;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in whihh to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 315
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Eliza Groom for herself and minor children, Martha, Dora, Peter W., Lourretha and Ennis Groom; by Henry Nash for himself; by Edward Nash for himself; by Curris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Linnie, and minor children, Maggie, Louie, Laura and Hettie Martin; by Nellie Brown for herself and minor children, Doris, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Clem Martin, Lena Shumbern, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah L. Tucker; by Lena Carter for herself; by Allie Holbrook, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Eliza Gaines, Jane Webb, Henry Thompson, Julia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein; and that all the other applicants in those several cases have been born since 186[illegible] and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 186[illegible].

The evidence further shows that Ella Hunter is the daughter of Rose Mango, sister of Eliza Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rose Mango was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19,18[illegible].

The said Alice Martin is duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 186[illegible], or from date of birth where born since the year 186[illegible], up to and including the date of the application herein, except occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28,1906.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in [illegible], 1861; that the applicant, Eliza Groom, died in October, 1901; and that the applicant, Ennis Groom, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed on September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Caines, Jane Webb, Mary Labry, Frank Labry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Hash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Hash, Allie Hash, Jesse H. Hash, Ollie Hash, Lucy Hash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hughes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Rachel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Marriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Dennis Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 5-1906.

	Relationship to Person first Named.	AGE.	SEX.	ENROLLMENT. Year.	District.	No.	
		38	F	N.C.	do.	4112	

RECORD FORWARDED DEPARTMENT

COPY OF DECISION FORWARDED APPLICANT SEP 30 1904

COPY OF DECISION FORWARDED ATTORNEY FOR APPLICANT

DECISION RENDERED SEP 5 - 1903

ACTION APPROVED BY SECRETARY OF INTERIOR AUG 4 1904

NOTICE OF DEPARTMENTAL ACTION MAILED TO APPLICANT APR 18 1904

NOTICE OF DEPARTMENTAL ACTION FORWARDED ATTORNEY FOR APPLICANT APR 18 1904

Represented by Mellette & Smith, Minto, D.T.
for applicant

COPY OF DECISION FORWARDED ATTORNEY FOR CHOCTAW NATION SEP 9 1903

In accordance with Commissioner's decision approved by Dept. No. 1 transferred to Cherokee Roll as mandated No. 1985

Card #D 22,0773

ADDITIONAL INFORMATION ON REVERSE SIDE

Roll numbers in first column refer to individual names on reverse side.

NAME OF FATHER.	FATHER'S TRIBAL ENROLLMENT. Year.	District.	No.	FATHER'S CITIZENSHIP.	NAME OF MOTHER.	MOTHER'S TRIBAL ENROLLMENT. Year.	District.	No.	MOTHER'S CITIZENSHIP.
Wood	Wd				Russell				

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Julia Nash,
Vinita, I.T.
Cherokee F-D-224
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F.D-220
etal.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 8, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Harry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Melinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Henry and Edward Nash, Charlie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah E.

COPY.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Linnie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Dean, Henrietta Dean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Greens and Ennis Greens.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. ADDOLBS,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Hughes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

Cherokee Freedmen
D-224.

Muskogee, Indian Territory, September 30, 1903

Julia Nash,

Vinita, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Chairman.

Register.
Enc. D-76

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Lash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dumston, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM

(Signed) A. C. Tonner.

5 enclosures.

Acting Commissioner.

D C 10862-1904.
ITD 833-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D 224

Muskogee, Indian Territory, April 18, 1904.

Julia Nash,

Vinita, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah Tucker, Clem Martin, Emma and Henrietta Beam, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Perry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greems, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ----------George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304---------- Robert Harper,
F--389---------- Mary Robbins, et al.,
F-1414---------- Houston West, et al.,
F-1415---------- George West, et al.,
F-1416---------- Callis West,
F-1417---------- Callis West,
F-1494---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinely Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinely Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	LeuYetha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3886	Lizzie Martin,
3887	Maggie Martin,
3888	Louis Martin,
3889	Laura Martin,
3890	Lottie Martin,
3891	Nellie Brown,
3892	Roxie Brown,
3893	Moses Brown,
3894	Jennie Brown,
3895	William Brown,
3896	Michael Brown,
3897	Harriett Tucker,
3898	Clem Martin,
3899	Emma Bean,
3900	Henrietta Bean,
3901	George Tucker,
3902	Floyd Tucker,
3903	Sarah M. Tucker,
3904	Lydia Carter,
3905	Allie McElroy,
3906	Etta Taylor,
3907	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callie West,
3877	Callie West,
4079	Henry West,
4080	Callie West Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Katie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088 ----------	Martha West.
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee Freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 23, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the [illegible]cants in whose favor the decision was rendered, except the name [illegible]ner, was included in the schedule of Cherokee [illegible]

approved by the department september 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the commissioner on July 27, 1904, showing that he had died on september 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was december 24, 1902. Aaron Hart Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee commission on citizenship on september 28, 1892, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the department's ruling in the Harry Still and John Morgan cherokee freedmen cases. The proceedings had before the Cherokee commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends thatthe motion filed on behalf of the Nation as to all of the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1285

COPY

Muskogee, Indian Territory, March 7, 1907.

Julia Nash,

Vinita, Indian Territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED [illegible]

JMH

Commissioner.

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patton,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

DANIEL M. ROBERTS

Commissioner.

Encl.H-21
JMH

COPY

Cherokee F.
1281 et al.

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B.

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John W. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Greems, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

WMP

Commissioner.

D.C.27557-1907.

I.T.
47948-1907.

DEPARTMENT OF THE INTERIOR, GAW

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1285

Muskogee, Indian Territory, June 8, 1907.

Julia Nash,

Vinita, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-5.
S.W.

Acting Commissioner.

Cherokee
F 1261 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 18, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1286

Cher Fr 1286

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
A 9 1901
ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1904

Post Office Tahlequa I.T.

District Coo

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

1. Name of wife Georgia Jones Age 36

Owner's name ..... Citizenship .....

Year R. C. Page 161 No. 3979 District Coo

Parents:

Father Wm Nash - dead Citizenship .....

Mother Eliza Gaines living Citizenship .....

Names of Children:

2	John H. Jones	Year R. C.	Page 161	No. 3980	Dist. Coo	16
3	Ellen "	Year "	Page 161	No. 3981	Dist. "	15
4	Charlie "	Year "	Page 161	No. 3984	Dist. "	12
5	Susie "	Year "	Page 161	No. 3983	Dist. "	9
6	Walter "	Year "	Page 161	No. 3985	Dist. "	5
7	Roxie "	Year "	Page 161	No. 3982	Dist. "	4
8	McKinley "	Year	Page	No.	Dist.	3
9	Centralia "	Year	Page	No.	Dist.	1
10.		Year	Page	No.	Dist.	
11.		Year	Page	No.	Dist.	
12.		Year	Page	No.	Dist.	

Application made by No. 1 Stenographer J. D. Rosson

1 On R. C. roll as Georgia Nash

2 " " " " " John Henry Jones

7 " " " " " Charley " "

8 " 9 " " " Dora " "

affidavits of birth required

Ex. Ref. to D. 220

Mellette and Smith attys for applicants.

To be filed with case of Georgia Jones, et al., F.-D.#225:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it? (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don' know.
Q Who do you want to enroll besides yourself?
A Myself.
Q How many children? A They are on there. (Referring to paper.)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kerns-Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorney for Applicant:

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to? what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton roll? A I guess I am on it, you will have to look to see.

BY W. W. HASTINGS, Cherokee Representative:

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.

Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel again.
Q About how long? A I guess it was about near, over six months, a year; we stayed there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q What children did you have at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Whom did you work for at Fort Gibson? A I washed for the soldiers.
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A Syayed until along in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, right across the line.
Q You didn't go into the State of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
A Yes, sir, on what they call.
Q Now, whom did you work for u there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A Yes, sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? A Yes, sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A I don't know, he hired us to work.
Q Have you ever lived in Kansas since the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timbered Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket?
A Yes, sir.
Q What direction is that, is it on the Cooweescoowee side?
A Yes, sir.
Q Towards the sunset from Bluejacket? A Yes, sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You stayed about three or four years at the Larkins place?
A Yes, sir.
Q Did you have any neighbors around there? A There was no neighbors but one family.

Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir.
Q Were you living there when the railroad come there? A No, sir, wasn't no railroad, living there long before the railroad was built.
Q You were living there when the railroad was built? A Yes, sir, wasn't no houses when the railroad come through.
Q Were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now, Aunty, how far from the railroad track, the M. J. & T., were you living? A I don't know, we could not hear the train.
Q On the south side of the track? A That was on this side of the track, over in Cooweescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Joulia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? (No response.)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by this name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Marline Johnson, and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did uou know her? A When I first known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll, or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir; Yes, sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come back in, along, in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.

Q About what season of the year was it you got back? A Along in the summer, Spring like.
Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called there, that winter and the next winter, come in the same winter, that is right the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q Do you know her children, know what their names are all of them, or not? A No, sir; I don't know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Governemtn rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. Chambers?
A No, sir, I seen her there as much as twice I know of; It was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer? A Yes, sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A Yes, sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865?
A Ye s, sir.
Q And say it was the next winter you saw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks 3ho raised me; well that fall I stayed there all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A Yes, sir.
Q You remember seeing her? A Yes sir.
Q Well when did you next see her? A I seen her again a short time after that, I saw her there in a store the next time I saw her.
Q Whose store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recall
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere but, I heard of her living up by William Tucker's.
Q You never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several thing .
Q How many times? A Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A Never done anything with me.
Q Did they try you? A Yes, sir, never done anything.
Q what did they do with you in the Cherokee Court? A Nothing, turned me aloose and let me go home.
Q Never was convicted? A No, sir.

Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lotsothers.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH:

Q Do you know Eliza Gaines? A Yes, sir.
Q Some times called Nash? A I know her.
Q How long have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q What was that? A Mr. Stever.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66, before the treaty was made.
Q Did you know where Eliza Nash was at that time? (No response.)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you kno3 any of her family, any of her children?
A No, sir, I could not tell anythi ng about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and If I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see? A Lydia that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.

BY W. W. HASTINGS:

Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stevens
Q How far war that from where you were living? A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there washing, I don't know where she was living.
Q How do you happen to remember seeing her? A I stopped there where she was and talked with her.
Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.

Q Where is that? A I don't know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tucker's.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it may have been a year or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from where she lived on Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Bluejacket.
Q Now, were you ever tried for anything by the Courts? A No, sir.
Q Never was arrested? A No, sir, not by the Courts, I was not.
Q By Marshalls? A No, sir, I used to be a Marshall myself, I never was arrested for any crime of any kind, never was.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880 or any rolls not in the possession of this Commission except the Kerns-Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn, as stenographer to the Commission to the Five Civilized Tribes states that the above and foregoing is a true and complete copy of the original transcript of the testimony and proceedings in the case of Eliza Gaines; said original transcript having been made by me as stenographer.

J O Rosson

Subscribed and sworn to before me this 20th day of May, 1901.

Commissioner.

To be filed with the case of Georgia Jones, et al.,F.-D.#225.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes,sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo.
Q How old is Leo? A 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever applied to be enrolled by any other Nation or tribe?
A No, sir.
Q Have you ever been recognizedby the Cherokee authorities as a Freedman? (No response.)
Q Knda Half way? A Yes, sir, just like the rest of them.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Is it on the Kerns-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you an proof of marriage? A Yes, sir.
Q Whom can you prove your marriage by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Was Bluejacket a Minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A Yes, sir.
Q Did you see him marry them A Yes, sir.
Q Is Bell Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes, three.
Q Born to when they were living together as man and wife?
A Yes, sir.
Q What are the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, re-called, testified as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicants:

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kerns-Clifton roll? A Yes sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You have heard the statement of your sister, Eliza and sister, Jane; did you go the rounds with them? A Yes, sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked in Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twnety miles.
Q How long did you work up there? A I workedup there off and on, cooked; I was up there three months I guess.
Q You were marriedin the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage?
A I worked out a good deal of the time, worked at Vinita some, I lived with my mother.
Q What was your mother's name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist:

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Lee and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kerns-Clifton Pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence.

By agreement of the Counsels in this case, the record in he case of Eliza Gaines, D.#220, is referred to and made part of the record in this case. The names of Berry Thomspon and his three children as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the dicision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimonh and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five citivilied tribes, he made the above and foregoing copy of the original transcript of the testimony and proceedings in the case of Berry Thompson, et al., and that the above and foregoing is a true and complete copy of the same.

J O Rosson

Subscribed and sworn to before me this 20th day of May, 1901.

Commissioner.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Georgia Jones et al for enrollment as Freedmen of the Cherokee Nation, one copy of the original testimony, May 9th, 1901, one copy of original testimony from case of Eliza Gains, May 9th, 1901 and one copy of original testimony of May 9th, 1901 from case of Berry Thompson.

Ulcette Smith
Attorney for Applicants.

Cherokee F. #D225.

F.9225

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

by delivering a true copy thereof on the ..... day of ..... A. D. 1901.

Given under my hand this ..... day ..... A. D. 1901.

..... Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the ..... day of ..... , 1901.

..... Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the ..... day of ..... A.D. 1901

.....

Subscribed and sworn to before me this ..... day of ..... A.D. 1901.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 13 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Georgia Jones for enrollment as a Cherokee Freedman:

Case No. F. D. 225

To Georgia Jones or Mellette & Smith

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct 12th 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12th day of Sept, 1901.

L B Bell

Attorneys for the Cherokee Nation.

File with case of Georgia Jones, et al., C.F.-D.#225.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~xxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A. He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q When ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1862?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before. A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show i t was the same Eliza Gaines; do you know any of their chi ldren?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Q~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spri ng of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the f all you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes,sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldi er at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/ Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation oBject to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

---oooOOOoooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-230.

To be filed with C. F. D. 224, Georgia Jones et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-230.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 28th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,)	
	Eliza Stover,)	
	Jane Stover,)	PETITION FOR CITIZENSHIP.
	Berry Stover,)	
	Lydia Stover,)	
	Angelina Stover,)	J. M. Bryan,
	Mary Stover,)	Atty for Claimant.
	vs)	
	Cherokee Nation.)	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos, Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones' et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1908.

B. C. Jones
Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellote & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17200 filed in the Mariah Hayden case F D 498; a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Georgie Jones, D 225;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and perfect transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

DEPARTMENT
RECEIVED
APR 9 - 1917
2233
SUPERINTENDENT CIVILIZED TRIBES

WASHINGTON, APR -5 1917, 191

I, E. B. Meritt, Assistant, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true copies of the originals as the same appear of record in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

E B Meritt

Assistant Commissioner.

by R

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Georgia Jones,
Chelsea, I.T.
Cherokee F-D-225
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee N. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Porch M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-6

COPY.

Cherokee Freedmen
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Minnie Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-26.

Cherokee Freedmen
D-225.

Muskogee, Indian Territory, September 30, 1903

Georgia Jones,

Chelsea, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for the enrollment of yourself and minor children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Chairman.

Enc. D-77

Register.

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah A. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned durin the year 1866.

Ella Humes is a daughter of Rosa ... Sango, who was a sister of Eliza Gaines. Rosa ... Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrant the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Hane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Louretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

for the enrollment of George Johnson and Eliza and Annie Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

Cherokee Freedmen
D-225.

Muskogee, Indian Territory, April 18, 1904.

Georgia Jones,

Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ----------George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304---------- Robert Harper,
F--389---------- Mary Robbins, et al.,
F-1414---------- Houston West, et al.,
F-1415---------- George West, et al.,
F-1416---------- Callis West,
F-1417---------- Callis West,
F-1494---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Rexie Jones,
3546	McKinely Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinely Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Greems,
3564	Dena Greems,
3565	Peter W. Greems,
3566	Leuretha Greems,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Lellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Maggie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callie West,
3877	Callie West,
4079	Henry West,
4080	Callie West Jr.,
4081	Cornelius West,
40 2	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Katie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), as testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced pon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates , describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. E-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 23, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Hart Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers-locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all of the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1286

COPY

Muskogee, Indian Territory, March 7, 1907.

Georgia Jones,

Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and children, among others, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

Commissioner.

JMH

Cherokee F.
1281 et al.

COPY.

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-21
JMK

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Elisa Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B[illegible]

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907.

I.T.
47948-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GAW

May 29, 1907.

The Commissioner
to the Five Civilized Tribes,
Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,
(Signed) C. F. Larrabee,
Acting Commissioner.

GAW-GH.

Cherokee F 1286

Muskogee, Indian Territory, June 8, 1907.

Georgia Jones,

Chelsea, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-6.
S.W.

Acting Commissioner.

Cherokee
F 1261 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1287

Cher Fr 1287

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of John Henry Nash for the enrollment of himself and four children as Cherokee Freedmen; said Nash being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Henry Nash.
Q How old are you? A 35 years old.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Copweescoowee.
Q Do you apply to be enroll as a Cherokee Freedman? A Yes, sir.
Q Who do you want do enroll besides yourself? A Myself and four children.
Q What are the names of your children? A One of them is named Allie Nash, that is the oldest one.
Q How old is she? A She is a boy.
Q How old is she boy? A 13 years old.
Q What is the next one, Mr. Nash? A Jesse.Hubbard Nash.
Q How old is Jesse Hubbard Nash? A 13 years old.
Q Is he a twin with Allie? A No, sir, he is 12 years old.
Q The next one? A Ollie.
Q How old is Ollie? A She is eight years.
Q The next one? A Lucy.
Q How old is Lucy? A She is six years old.
Q Is that all? A Yes, sir.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Lou Ella.
Q Is she a citizen? A No, sir.
Q How old is she? A 34.
Q Have you any certificate of marriage to her? A No, sir, I had one but my house got burned up and it went with the fire.
Q Who married you? A Uncle Charlie Bluejacket.
Q Is he living? A No, sir, he is dead.

ELIZA GAINES, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q Your name is Eliza Gaines? A Yes, sir.
Q About 60 years old? A Yes, sir.
Q What is your post office? A Bluejacket.
Q Do you know John Nash? A Yes, sir.
Q What relation is he to you? A My son.
Q Do you know his wife, Lou Ella? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir.
Q How do you know? A Same man married him married me.
Q Did you see them married? A Yes, sir.
Q You know that they were married? A Yes, sir.
Q Is Lou Ella living now? A Yes, sir.
Q Have they lived together ever since they were married?
A Yes, sir.
Q Were these children all born while they were living together?
A Yes, sir.

JOHN H. NASH, the Applicant, re-called, testified as follows:

Q Are these children all living now? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and the names of applicants not found thereon.
The 1896 Census Roll of ci izens of the Cherokee Nation examined and the names of applicants not found thereon.

Q Is your name on the Kerns-Clifton pay roll? A Yes, sir.

The Kerns-Clifton Roll of citizens of the Cherokee nation examined and names of applicants found thereon as follows:
Page 161, #3974, John Henry Nash, Cooweescoowee District.
Page 161, #3976, Alice Nash, " "
Page 161, #3977, Jessie Nash, " "
Child Ollie's name identified on Roll: Page 161, #3975, as John Nash, Cooweescoowee District.

Q Did you have a child named John? A No, sir, they got that little girl they called Ollie.
Q How did that happen? A I don't know how it happened, I drawed for her.
Q Under the name of John? A I guess so.
Q What was your wife's name before you married her? A Carroll.
Q Lou Ella Carroll? A Yes, sir.
Q Now, you swear that the John Nash that is on that roll is intended for Ollie? A Yes, sir.
Q You never had a son named John? A No, sir.

By MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicants:

Q John, who was your mother? A Eliza Gaines.
Q Is she the Eliza Gaines who testified here in her own behalf a few minutes ago? A Yes, sir.
Q Do you know Berry Thompson? A Yes, sir.
Q Jane Webb? A Yes, sir, she is an Aunt of mine.
Q Where do you live? A Two miles and a half from Bluejacket.
Q How long have you been living there? A I have been living on that place where I have been living at now, 14 or 15 years I guess.
Q Where have you always lived, if you have lived anywhere except the Cherokee Nation? A No, sir, I always worked up and down on Cabin Creek there.
Q Where were you at your earliest recollect, where were you when you first remembered anything? A I think I was working for old man Jenkins on Cabin Creek.
Q In the Cherokee Nation? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Have you ever lived in Kansas? A No, sir.
Q Did you ever work up there? A I worked up there before I was married.
Q How long have you been married? A Married about 14 years, the 12th of this month.
Q Has your mother always lived here? A Yes, sir.
Q Have you made your mother's your home? A Yes, sir.
Q How long at any time did you work up there? A Sometimes I would go and work a week, sometimes two weeks; when my father died I was the only support she had.
Q Where did your father die? A On the old man Jenkins' place.

BY COMMISSIONER NEEDLES:

Q Are these children all living? A Yes, sir.
Q Have you always lived in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES:--John H. Nash applies for the enrollment of himself and four children, to-wit: Allie, Jesse H., Ollie and Lucy. His name cannot be found upon the authenticated roll of 1880, but his name is found upon the Kerns-Clifton pay roll. The names of his children, Allie, Jesse H., Ollie, are found upon the Kerns-Clifton roll. Ollie's name being identified as having been enrolled on said roll as John.

The name of his child, Lucy, does not appear upon the roll, having been born after the same was compiled. He avers that he was married to one Lou Ella Carroll, a non-citizen, and makes satisfactory proof of said marriage. By said marriage he has the children applied for. They are all duly id ntified, and make satisfactory proof as to residence. By agreement of the Counsels on the behalf of the applicant and the Cherokee Nation present, the testimony taken in the matter of the enrollment of Eliza Gaines, as a Cherokee Freedman, enrolled on D. Card #220, and that of Berry Thompson, D. #223, is referred to and made a part of the record in this case. The names of John H. Nash, and his children will be places upon a doubtful card as Cherokee Freedmen for further consideration of the Commission. When the Commission arrives at a decision in the case the applicant will be notified at his post office address. In the meantime any testimony the applicant wants to offer in the case will be received.

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J. O. Rosson, being first duly sworn, states that as stenograper to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic note thereof.

J O Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

C R Breckinridge

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 9 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Bloxjacket I.T.

District Cso

1. Name John H. Nash Age 35

Owner's name Citizenship

Year R.C. Page 161 No. 3974 District Cso

Parents:

Father Citizenship

Mother Eliza Gaines - living Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father DOUBTFUL Citizenship

Mother Citizenship

Names of Children

2	Allie Nash	Year R.C.	Page 161	No. 3976	Dist. Cso	13
3	Jesse A. "	Year	Page 161	No. 3977	Dist. "	12
4	Alfie "	Year "	Page 161	No. 3975	Dist. "	8
5	Lucy "	Year	Page	No.	Dist.	
7.		Year	Page	No.	Dist.	
8.		Year	Page	No.	Dist.	
9.		Year	Page	No.	Dist.	
10.		Year	Page	No.	Dist.	
11.		Year	Page	No.	Dist.	
12.		Year	Page	No.	Dist.	

Doubtful

Application made by No 1 Stenographer H. Rosson

1 On R.C. roll as John Henry Nash

2 " " " " " Alice Nash

3 " " " " " Jessie "

4 " " " " " John "

5 - affidavit of birth required.

D. Z. Ochiltree

Mellette and Smith Attys for applicants.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of John H. Nash et al for enrollment as Freedmen of the Cherokee Nation, one copy of the original testimony of May 9th, 1901.

Mellette & Smith

Attorney for Applicants'

Cherokee F. #D226.

To be filed with case of John H. Nash, F.-D.#226.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo.
Q How old is Leo? A 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A Yes, sir
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No response.)
Q Kinda half way? A Yes, sir, just like the rest of them.
Q s your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Is your name on the roll of 1880? A no, sir.
Q Is it on the Kern-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of marriage? A Yes, sir.
Q Whom can you prove your marriage by ? A Her sisters.
Q Are they here? A yes, w ir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needle , testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not?
A yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Did you see him marry them? A yes, sir.
Q Was Bluejacket a minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A yes, sir.
Q Is Bell Thompson living no , his wife? A Yes, sir.
Q Did t hey have any children? A Yes, three.
Q Born to them while they were living together as man and wife?
A Yes, sir.
Q What is the name of them do you recollect? A Elmer.
Q Lee? A Lee and Morris.

BERRY THOMPSON, the Applicant, re-called, testified as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette Attorneys for Applicants.

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did,'66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kern-Clifton roll? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You had heard the statement of your sister Eliza, and sister Jane; did you go the rounds with them? A Yes, sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I worked up there off and on, cooked; I was up there about three months I guess.
Q You were married in the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage? A I worked out a good deal of the time, worked at Vinita some, I lived with my mother.
Q What was your mother's name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years/
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not? A I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist.

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kern-Clifton Pay roll. The names of his three

COMMISSION TO THE FIVE CIVILIZED TRIBES
JUL 23 1901

children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the Counsels in this case, the record in the case of Eliza Gaines, D.#2202 is referred to and made part of the record in this case. The names of Berry Thompson and his three children, as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 20th day of July, 1901.

Commissioner.

To be filed with the case of John H. Nash, F.-D.#226.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedmen; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it. (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there. (Referring to paper.)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kern-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicant.

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to, what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton Roll? A I guess I am on it, you will have to look to see.

BY MR. W. W. HASTINGS, Cherokee representative.

Q Whom did you come back to the Cherokee Nation with?
A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
Q Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.

Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.
Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her h sband.
Q How long did you stay at Fort Gibson? A We stayed there about, we came in the fall before Christmas, stayed there u ntil I got able to travel again.
Q About how long? A I guess it was about nearly, over six months, a year; we stayed there and drawed rations.
Q Whom did you st ay with at Gibson? A We was in a t ent.
Q Just you two and her h sband? A Yes, sir, and the c hildren.
Q What children did you have at that time? A I h d Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Who did you work for at Fort Gibson? A I washed for the soldiers.
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewheres where the old Fort had bee and there was coffins there and any w ay I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you st ay with Hoo ley Bell? A Stayed until alon g in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1867 when you stayed up at Hoo ley Bell's? A I don 't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, right across the line.
Q You didn't go into the State of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
A Yes, sir, on hat they call.
Q Now, whom did y ou work for up there? A We was working for our selves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q How, how long did you work for Larkin s? A We stayed there a lo ng time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until y ou moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A Yes, sir.
Q Are an y of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? A Yes, sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation?
A I don't know, he hired us to work.
Q Have you ever lived in Kansas sinc e the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now?
A Yes, sir; I don't li ve there now, I live on Timber Hill near Bluejacket.
Q I mean you come from the Learkins place down to near Blue acket?
A Yes, sir.
Q What direction is that, is it on the Cooweescoowee side?
A Yes, sir.
Q Towar is the sunset from Bluejacket? A Yes, sir
Q Did your sister go with you all these rounds yo were t alkin g about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You stayed ablut three or four years at the Larkins place?
Q Yes, sir.

Q Did you have any neighbors around there? A There was no neighbors but one family.
Q What was that family? A John Shafer.
Q Did he live in the Cherokee nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many mil s to best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir
Q Were you living there when the rai lroad come there?
A No, sir, wasn't no railroad, living there long before the railroad was built .
Q You were living there when the railroad was built? A Yes, sir, there wasn't no houses when the rai lroad come thorugh.
Q Were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now, Au nty, n ow far from the railroad track, the M. K. & T. were you living? A I don't know, we could not hear the train.
Q On the south of the track? A That was on this side of the Track over in Cooweescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Julia Nash, Lizzie, Georgia ANn, Malinda, Etta, Ber ry, the other three is dead.
Q How many? A Three is dead.
Q How man y are alive now that you name? (No response.)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by ~~the name~~ this name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girsl? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia, Jones and Lizzie, Martin and Carrie Harrison.
Q Are they here? A Th re is Mary Mayberry

CHARLEY CHAMBERS, called as a witness on the part of applicant, sworn and examined by Commissioner T. B. Needles, t sitifed as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Ch ambers? A 78.
Q Wh t is your post offic e address? A Hudson.

BY MR. SMITH:

Q D you know Eli za Nash or Eliza Gaines? A Yes, sir.
Q How lon g have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I first known her she was at, my first known ing her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll, or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir; y es, sir; I went out of the Cherokee Nation, but I was in the Territory , the Choctaws.
Q The Choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on his side of the river.
Q How long was i t after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come back in , along, in the summer and I come up from there there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.
Q About what season of t he year was it you got back?
A Along in the su mmer, sprin g like.

Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called t here, that winter and the nex winter, come in the same winter, that is right, the same winter.
Q well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q no you know her children, know what their names are all of them or not? A No, sir; I don 't know; I never seen any of the children then, I didn't know anybody but her and she was up t here, up there drawing Government rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. Chambers?
A no, sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in t he fall after you come back in the spring or summer? A yes, sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir; I am positive I saw her there.
Q Are you positive about the ye ar you saw her? A It is the samw winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A yes, sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865?
A Yes, sir.
Q And say it was the next winter yousaw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter come up to see my old folks who raised me; well that fall I stayed t here all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A Yes, sir.
Q You remember seeing her? A Yes, sir.
Q well when did you next see her? A I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A I can't call the man's name nowp but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recall
Q I was not there? A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, Timbered Hill.
Q How longwas that after you saw her at Fort Gibson? A Four or five years.
Q Yo8 don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere but, I heard of her living up by William Tucker's.
Q you never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several things.
Q How many times? A Twice, three times, one time for selling bows and the next time for seeling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A Never done anything with me.
Q Did they try you? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, turned me alooss and let me go home.
Q Never was convicted? A No, sir.

Q You don 't remember seeing anybody but this woman in 1866?
A Oh, I seen lots others.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examinedby Commissi oner T. . Needles, testified as follows:

Q What is your n ame? A James Alberty .
Q What is your post office? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are y ou a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes
Q Is your name on the roll of 1880? A N., sir.

BY MR. SMITH:

Q Do you know Eliza Gaine s? A Yes, sir.
Q Sometimes called Nash? A I know her.
Q How lo ng have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q Who was that? A Mr. Stover.
Q Well, where were you during the war; did yo u go out of the Cherokee Nation? A Yes, sir, south.
Q When did y ou return to the Cherokee Nation? A I returned in '66, before the Treaty was made.
Q Did you k ow where Eliza Nash was at that time? (No response.)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did y ou know any of her family, any of her children?
A No, sir, I could not tell an thing about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and If I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sr.
Q Who did you see? A Lydai that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A N o, sir; I don't know.

BY MR. W. W. HASTINGS:

Q whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bri dge.
Q Where was this woman living when the war come up? A At Stover's.
Q How far was that from where you were living? A I trained horses right there by Wilsons.
Q Whom did you train horses for? A Trained horse for Jim Kell.
Q And you knew Eliza before the war? A Yes, sir.
Q What were you dong at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was t here washing, I don't know whethe she was living.
Q How do you hep en to remember seeing her? A I stopped there where she was and talked with her.
Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.
Q Where is that? A I don't know which way it is from here.
Q How far from Vinita? A Good ways.

Q Near those place? A Bill Bucker's.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it may have been a year or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Rucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from ~~the~~ it where she lives on Cabin Creek to where she lives now? A yes, sir.
Q West of Bluejacket? A yes, sir, west of Bluejacket.
Q Him, were you ever tried for anything by the Courts?
A No, sir.
Q Never was arrested? A No, sir, not by Courts, I was not.
Q By Marshalls? A No, sir, I used to be a Marshall myself, I never was arrested for any crime of any kind, never was.

COM'R NEEDLES: Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this Commission except the Kern-Clifton roll, and her name is found thereon accoring to the page and number as indicated in the testi mony. Her name will now be placed upon a doub ful card for the further consideration oby the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commi ssion to the Five Civilized Tribes, he correctly recorded the t estimony and proceedings in t his case, and that the fore going is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 20th day of July, 1901.

Commissi oner.

FD 226

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on

by delivering a true copy thereof on the day of A. D. 1901.

Given under my hand this day A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the day of , 1901.

SEP 18 1901

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A.D.1901

Subscribed and sworn to before me this day of A.D.1901.

COMMISSION TO THE CIVILIZED TRIBES.

FILED
SEP 18 1901

ACTING CHAIRMAN.

File with case of John H. Nash, et al., C.F.-D.#226.

Supl.C.F.-D.#220 R

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~improve~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell Creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United States citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q when you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show i t was the same Eliza Gaines; do you know any of their chi ldren?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~thank~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spri ng of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes,sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behald of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldi er at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q That year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t notheing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time they got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/
Subscribed and sworn to before me this September 11th, 1889.
John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this afficavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 225, John H. Nash et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cheroke Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 28th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,	
	Eliza Stover,	
	Jane Stover,	PETITION FOR CITIZENSHIP.
	Berry Stover,	
	Lydia Stover,	
	Angelina Stover,	J. H. Bryan,
	Mary Stover,	Atty for Claimant.
	vs	
	Cherokee Nation.	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cheroke Nation, and that their claim therefor should be and the same is hereby rejected; said claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1902.

B C Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

John H. Nash, D 226;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 507
Nellie Brown et al	Cherokee Freedmen D 515
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

CORRECTION

THIS DOCUMENT HAS BEEN REPHOTOGRAPHED TO ASSURE LEGIBILITY

DEPARTMENT OF THE INTERIOR?
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 297
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 516
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Groome for herself and minor children, Martha, Dora, Peter W., Lorretha and Ennis Groome; by Henry Nash for himself; by Edward Nash for himself; by Carris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lottie Martin; by Nellie Brown for herself and minor children, Ronie, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Anna Chumbleen, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah L. Tucker; by Lydia Carter for herself; by Allie Holiroy, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellen Gaines, Jane Webb, Henry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Gaines are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1865.

The evidence further shows that Ella Hunter is the daughter of Rose Mango, sister of Ellen Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rose Mango was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin was duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears, from affidavits made a part of the record herein, that the applicant, George Johnson, died in October, 1901, and that the applicant, Ellen Groome, died in October, 1901; and that the applicant, Ennis Groome, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed on September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Caines, Jane Webb, Mary Abry, Frank Abry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Rachel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Monie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Minnie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 1-1906.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

DEPARTMENT
RECEIVED
SEP 7 1923
5957
NO.
Bureau Five Civilized Tribes

WASHINGTON, D. C., August 30, 1923

I, E. B. Meritt, - - - - - - - - - - - Assistant, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are - - - - - - - - - - - - true copies of the original as the same appears on file - - - - - - - - - - - - in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed on the day and year first above written.

E B Meritt

Assistant Commissioner.

NV

40276

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. John H. Nash,
Bluejacket, I.T.
Cherokee F-D-226
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lettie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherok e freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 8th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Annis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

COPY.

Cherokee Freedmen
D-226.

Muskogee, Indian Territory, September 30, 1903.

John H. Nash,

Bluejacket, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for the enrollment of yourself and minor children, Allie, Jesse H., Ollie and Lucy Nash, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

Register.

Chairman.

Enc. D-78

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee Freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Nunes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Lellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 1[illegible], 1904.

Edmar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Hunes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 6, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-~~266.~~
226

Muskogee, Indian Territory, April 18, 1904.

John H. Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your four minor children, Allie, Jesse H., Ollie and Lucy Nash, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Elisa and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233---------- Mary Harris, et al.,
F-1234---------- Joseph Curry,
F-1235---------- Ostella Martin, et al.,
F-1236---------- Harrison Curry,
F-1281---------- Eliza Gaines,
F-1282---------- Jane Webb,
F-1283---------- Mary Mabry, et al.,
F-1284---------- Berry Thompson, et al.,
F-1285---------- Julia Nash,
F-1286---------- Georgia Jones, et al.,
F-1287---------- John H. Nash, et al.,
F-1288---------- Malinda Johnson, et al.,
F-1289---------- Martha Grooms, et al.,
F-1290---------- Berry Nash,
F-1291---------- Edward Nash,
F-1292---------- Carrie Harris, et al.,
F-1293---------- Ella Humes,
F-1295---------- Michael Martin,
F-1296---------- George Martin, et al.,
F-1297---------- Joshua Martin,
F-1298---------- Edward Brown, et al.,
F-1299---------- Israel Martin, et al.,
F-1300---------- Nellie Brown, et al.,
F-1301---------- Harriett Tucker, et al.,
F-1302---------- Lydia Carter,
F-1303---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F-389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Cilfton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callie West,
3877	Callie West,
4079	Henry West,
4080	Callie West Jr.,
4081	Cornelius West,
40 2	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088 ----------	Martha West.
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates , describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Mart Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shows that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can e identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all of the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 26, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1287

COPY

Muskogee, Indian Territory, March 7, 1907.

John H. Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and children, among others, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

Commissioner.

JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.N-21
JMH

COPY

Cherokee F.
1281 et al.

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby,

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907.

I.T.
47948-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GAW

May 29, 1907.

The Commissioner
to the Five Civilized Tribes,
Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,
(Signed) C. F. Larrabee,
Acting Commissioner.

GAW-GH.

Cherokee F 1287

Muskogee, Indian Territory, June 8, 1907.

John H. Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-7.
S.W.

Acting Commissioner.

Cherokee
F 1261 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Mina Gaines, et al., as Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

N THE MATTER OF THE APPLICATION O

John H. Nasheka

FOR ENROLLMENT AS

CHER CHE FREEDMEN

APR 4 1904

Cher Fr 1288

See Cher Fr 1281-1284

Cher Fr 1288

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Malinda Johnson for the enrollment of hekself and eight children as Cherokee Freedmen; said Johnson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Malinda Johnson.
Q How old are you, Malinda? A 28.
Q What is your post office address? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My children.
Q How many? A Eight.
Q well gime me the name of the oldest child? A Lottie.
Q How old is Lottie? A About 15.
Q The next child? A Lizzie.
Q How old is Lizzie? A About 12.
Q The next one? A Bell.
Q How old is Bell? A About ten.
Q The next one? A Eva.
Q How olf is Eva? A About eight.
Q The next one? A Anna.Anna's five.
Q The next one? A Peter McKinley Johnson four years old.
Q What is the next one? A Reubin.
Q How old is Reubin? A Three years.
Q The next one? A Lewis.
Q How old is Lewis? A One year.
Q Are you married? A Yes, sir.
Q what is your husband's name? A Lewis Johnson.
Q Is he a citizen? A No, sir.
Q What is your father's name? A Henry Nash.
Q Is he living? A No, sir.
Q What is your mother's name? A Eliza Gaines.
Q Is she living? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census Roll of freedmen of the Cherokee Nation examined and applicantsI names not found thereon.

Q Did you draw what is known as thw strip payment money? A Yes, sir.
Q What your is on what is known as the Kerns-Clifton roll?
A Yes, sir.
Q You never applied to be enrolled by any other Nation or tribe, did you? A No, sir.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicants:

Q Your mother's name you say is Eliza Gaines? A Yes, sir.
Q she is the same Eliza Gaines who has just testified here in her own case? A Yes, sir.
Q Are you related to Berry Thompson? A My uncle.
Q Are you related to Jane Webb? A My aunt.
Q Where do you live? A Vinita.
Q How long have you been in Vinita? A Two years.
Q Where did you live before you came to Vinita? A Bluejacket.
Q How long have you lived in the Cherokee Nation? A Ever since I knowed him.

BY W. W. HASTINGS: Cherokee Representative:

Q where were you married? A Bluejacket.
Q Who married you? A Mr. Ward.
Q Peter Wade A No, sir, Abram Ward.

Q Were all these children born in the Cherokee Nation?
A Yes,sir.
Q None of them born in Kansas? A No, sir.
Q You have never lived in Kansas? A No, sir.
Q You have always lived in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES:

Q Are these children all alive and living with you? A Yes, sir.
Q Were you ever marri d before you married Lewis Johnson? A No, sir.
Q You are living with Lewis Johnson now? A Yes, sir.

The Kerns-Clifton Roll of citizens of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 161, #3990, Malinda Nash, Cooweescoowee District.
Page 161, #3991, Lottie Johnson, Cooweescoowee District.
Page 161, #3992, Lizzie Johnson, Cooweescoowee.
Page 161, #3993, Bell Johnson, CooweescooweeDistrict.
Page 161, #3994, Eva Johnson, Cooweescoowee District.

COM'R NEEDLES:--Malinda Johnson applies for the enrollment of herself and eight children, to-wit: Lottie, Lizzie, Bell, Eva, Anna, Peter McK., Reubin and Lewis. She avers that she is a child of Elizabeth Gaines. She avers that she has been married to one Lewis Johns, a non-citizen, whos the father of the children for whom she applies for enrollment. Her name is not found upon the authenticated roll of 1880, but is found upon the Kerns-Clifton pay rooll, under the name of Malinda Nash, but she is duly identified as the ap licant. The names of her four older children are found upon the Kerns-Clifton roll. The names of Anna, Peter McK, Reubin and Lewis, are not found upon said roll, having been born after the said rolls were compiled. They are all duly identified according to the page and number of the roll and make satisfactory proof as to residence By agreement of the Attorney for the Applicant and the Cherokee Nation the testimony taken in the matter of the enrollment of Eliza Gainst, on D. Card #220, and of Berry Thompson, on D. Card #223, is referred to and made a part of the record in the case of the applicant. Consequently Malinda Johnson and the names of her children, as enumerated herein, will be placed upon a doubtful card for the further consideraton of this Commission. She will be duly notified when the Commission arrives at a decision in her case. It will be necessary for her to file with this Commission satisfactory proof of the bi th of her four younger children whose names do not appear upon the Kerns-Clifton pay roll. In the meantime f she want to offer any other testimony the same will be received.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

C R Kavanaugh

Commissioner.

11221

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
9 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1907

Post Office Vinita I.T.

District 600.

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

(1). Name of wife Malinda Johnson Age 28

Owner's name ..... Citizenship .....

Year 1896, Page 161 No. 3990 District 600

Parents:

Father Wm Nash - dead Citizenship .....

Mother Eliza Gaines - living Citizenship .....

Names of Children:

2.	Lottie Johnson	Year 1896	Page 161	No. 3991	Dist 600	10
3.	Lizzie "	Year "	Page 161	No. 3992	Dist. "	12
4.	Belle "	Year "	Page 161	No. 3993	Dist. "	10
5.	Eva "	Year "	Page 161	No. 3994	Dist. "	8
6.	Annie "	Year	Page	No.	Dist.	5
7.	Peter McK. "	Year	Page	No.	Dist.	4
8.	Reuben "	Year	Page	No.	Dist.	3
9.	Lewis "	Year	Page	No.	Dist.	1
10.		Year	Page	No.	Dist.	
11.		Year	Page	No.	Dist.	
12.		Year	Page	No.	Dist.	

Application made by ..... Stenographer J. C. Rosson

1 on R.C. roll as Malinda Nash

4, 6, 7, 8 and 9, " " " Bell Johnson

affidavits of birth required

Mellette and Smith, Attys for applicants.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Malinda Johnson et al for enrollment as Freedmen of the Cherokee Nation, one copy of the original testimony, May 9th, 1901.

Mellette Smith
Attorney for Applicants.

Cherokee F. #D227.

To be filed with yhe case of Malinda Johnson, F.-D.#227.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of hi mself and t hree children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, tesitified as follows:

Q What is your name? A Ber ry Thompson.
Q How old are you?Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do y ou live in? A Cooweescoowee.
Q Do y ou apply to be enrollee as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself?
A I got three children.
Q What are theix names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo.
Q How old is Leo? A 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is th at all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A N o, sir
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No respo nse.)
Q Kinda half way? A yes, sir, ju st like the rest of them.
Q Is your name on the roll of 1880? A No, sir.
Q Is y our name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Is it on the Kern-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of marriage? A Yes, sir.
Q Whom can you prove your marriee by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles, te t ified as follows:

Q Wh t is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A Yes, sir.
Q Do you know his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not?
A Yes, sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Did you see him marry them? A Yes, sir
Q Was Bluejacket a minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as man an wife ever since their marriage? A Yes, sir.
Q Is Bell Thompson li vi ng now, his wife? A Yes, sir.
Q Did they have any children? A Yes, three.
Q Born to them while they were living together as man and wife?
A Yes, sir.
Q Q What is the names of them, do you recollec t? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the Applicant, re-called, testifi ed as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicants:

Q How old did you say y ou are, Berry? A 46.
Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash or Eliza Gaines? A I am her brother.
Q Did y ou go out of the Nation , or were you taken out of t he Cherokee Nation during t he war? A Yes, sir
Q By whom were you taken out? A My Master.
Q When did you r t urn? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
A You say you are on the Kern-Clifton roll? A Yes, sir.

BY W. W. HASTINGS , Cherokee Representative:

Q Where were you married? A I was married about three miles an d a half from Bluejacket at the lower end of Timbered Hill.
Q You have heard the statement of your sister, Eliza, and her sister, Jane; did you go the rounds with them? A Yes, si r
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I workedin Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I worked up there off and on, cooked; I was up there three months I gess.
Q You were married in the Nation? A yes, sir.
Q Did you make your home with your sister before your marriage?
A I worked out a good deal of the time, worked at Vinita some, I lived wi h my mother.
Q What was your mother's name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along t oo? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill i n the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was or not.
Q How long has it been since she dies ? A About 13 years.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name not fou nd thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nati on examined and namesof applicantsfound thereon as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson , Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist.

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kern-Clifton Pay roll. The names of his three children ar e also found upon said roll. He is duly identified accord ing to the page and number of said roll and makes satisfac-

tory proof as to residence. By agreement of the Counsel in this case, the record in the case of Eliza Gains, D.#220, is referred to and made part of the record in this case. The names of Berry Thompson and his three children as enumerated herein will be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 20th day of July, 1901.

Commissioner.

FD227

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

by delivering a true copy thereof on the ..... day of ..... A. D. 1901.

Given under my hand this ..... day ..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the ..... day of ....., 1901.

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the ..... day of ..... A.D. 1901

Subscribed and sworn to before me this ..... day of ..... A.D. 1901.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 13 1901

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF The application of Malinda Johnson for enrollment as a Cherokee Freedman:

Case No. F. D. 227

To Malinda Johnson or Mellette Smith her atty

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee Indian Territory, on the following dates, to-wit: 12th Oct at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12 day of Sept. 1901.

L B Bell

Attorneys for the Cherokee Nation.

To be filed with the case of Malinda Johnson, F.-D.#227.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it. (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there? (Referring to paper.)
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kern-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH of the firm of Smith & Mellette, Attorneys for Applicant.

Q Were you a slave A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master
Q Did you go out of the Nation? A Yes, sir
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to, what part of the Cherokee Nation?
A I come to Gibson .
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kern-Clifton roll? A I guess I am on it, you will have to look to see.

BY W. W. HASTINGS, Cherokee representative:
Q Whom did you come back to the Cherokee Nation with?
A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q Af er he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.

Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.
Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hirex? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christ mas, stayed there until I got able to travel again.
Q About how long? A I guess it was about, nearly, over six months, a year; we stayed there and drawee rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q What children did you have at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Who did you work for at Fort Gibson? A I washed for the soldiers.
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewheres where the old Fort had been and there was doffins there, and anyway I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A Stayed until along in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A yes, sir.
Q And that musty have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A yes, sir, right across the line.
Q You didn't go into the States of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
A yes, sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A yes, sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? A Yes, sir, he had four in his family, his wife and two childre .
Q Was Mr. Larkins a citizen of the Cherokee Nation?
A I don't know, he hired us to work.
Q Have you ever lived in Kansas since the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now?
A Yes, sir; I dont live there now, I live on Timbered Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket?
A Yes, sir.
Q What direction is that, is it on the Coowescoowee side?
A yes, sir.
Q Towards the sunset from Bluejacket? A Yes, sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out .
Q You stayed about three or four years at the Larkins place?
A Yes, sir.

Q Did you have any neighbors around there? A There was no neighbors but one family.
Q What was tha family? A John Shafer.
Q Did he live in the Cherokee Nation? A es, sir
Q Now, about how far from Chetopa were you, about how many miles t o the best of your knwoledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir
Q Sout of Chetopa? A Yes, si r.
Q Were you living there when the rai lroad come there? A No, sir, wasn't no railroad, li v ing there long before the railroad was built.
Q You were living there when the r ailroad was bu9lt? A Yes, sir, there wasn't no houses when the r ailroad ome thoru gh.
Q Were you living at Larkins when the railroad come there?
A yes, sir.
Q Now, Aunty, how far from the railroad track, the M. K. & T., were you living? A I don't know, we could not hear the train.
Q On the south of the track? A That was on this side of the track over in Cooweescoowee.

BY MR. SMITH:

Q Who are you r children? A John Henry.
Q John Henry wh t? A John Henry Nasy , Julia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that y ou name? (no response.)
Q You don't mean that any of those whose names you give are dead?
A N o, sir.
Q Do they go by this n ame; are they still named Nash, or are t hey married? A They are married.
Q What are the names of the girsl? A Malinda John and John N ash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I fist known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A yes, sir.
Q Are you on the 1 80 roll, or not? A Yes, sir
Q Where were you during the war; did you go out of the Cherokee Nation? A o, si r; Yes, sir; I went out of the Cherokee Nati n bu t I was in the Territory, the Choctaws.
Q The Choctaw Nation? A yes, sir
Q Do you remember when you got back to the Cherokee Nation?
A yes, sir
Q When was it? A I come bac in '65, I come back in '65, this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come back in along in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter, about the next, I mean the next year, t he winter I was over to Fo rt Gibson and seen her there.

Q About what season of the year was it you got back?
A Along in the summer, spring like.
Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called t here, that winter and the next winter, come in t he same winter, that i right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? Yes, sir.
Q Do you know her children, know what their names are all of them, or not? A No, sir, I don't know; I never seen any of the children the, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

BY W. W. HASINGS:

Q Did you see her there then the one time, Mr. Chambers?
A No, sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer?
A Yes, sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir, I am positive I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed t ere all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that wint er I seen her.
Q You know that? A Yes, sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865?
A Yes, sir.
Q And say it was the next winter you saw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand m e right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I stayed there all fall and that fall I went down to Gi bson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all t hat bunch? A Yes, si r.
Q You remember seeing her? A Yes, sir.
Q Well when did you next see her? A I seen her again a short time after that I saw her there in a store the next time I saw er.
Q Whose store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don 't you, don't you rec all.
Q I was not there. A There at For t Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more un til I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson?
A Four or five years.
Q You don't know where she had been in the meantime? A N o, si r; but I don't khink she had been anwhere but, I heard of her living up by William Tuckers:
Q You never did see her up there? A No, sir.
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several things.
Q How many times? A Twice, three times, one time for seeling boys and the next time for selling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court?
Q What for? A For shooting at a man.
Q What was done with y ou? A Never done anything with me.
Q Did they try y ou? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, t urned me loose and let me go home.

Q Never was convicted? A No, sir.
Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lots othere.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH:

Q Do you know Eliza Gaines? A Yes, sir.
Q Sometimes called Nash? A I know her.
Q How long have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q Who was that A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation?
A I returned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was at that time? (No response.)
Q When did you see Eliza Nash? A When I came back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you know any of her family?, any of her children?
A No, sir, I could not tell anything about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and if I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see? A Lydia that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.

BY MR. W. W. HASTINGS:

Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
A He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stover's
Q How far was that from where you were living?
A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And youknew Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about, getting drunk; that is all Idone in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her?
A She was there washing, I don't know where she was living.
Q How do you happen to remember seeing her? A I stopped there where she was and talked with her.
Q Did you see her just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.

Q Where is that? A I don't know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tucker's.
Q On Cabin Creek? A Yes, sir
Q When was that you saw her there? A I don't know, it may have been a year or may be more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from where she lived on Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Bluejacket.
Q Jim, were you ever tried for anything by the Courts?
A No, sir.
Q Never was arrested? A No, sir, not by Courts, I was not.
Q By Marshalls? A No, sir, I used to be a Marshall myself, I never was arrested for any crume of any kind, never was.

COM'R NEEDLES:--Eliza Gaines applies for the enrollment of herself as a Cherokee freedman. Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this commission except the Kern-Clifton roll, and her name is found thereon according to the page and number ~~of the roll~~ as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 20th day of July, 1901.

Commissioner.

File with case of Malinda Johnson, et al., C.F. D.#227.

Supl.C.F.-D.#220. _R_

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZ. GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~improve~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I believe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell Creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United states citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q Whether if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A well, my range extendedfrom Neosho river over to the he d of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that hi s testimony be stricken out?
Commission: The objection will be noted and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q when you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timber Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Q~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to September.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn't nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directly about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/
Subscribed and sworn to before me this September 11th, 1889.
John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she r sided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? . S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation oBject to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 226, Malinda Jones et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cheroke Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 30th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,	
	Eliza Stover,	
	Jane Stover,	PETITION FOR CITIZENSHIP.
	Berry Stover,	
	Lydia Stover,	
	Angelina Stover,	J. M. Bryan,
	Mary Stover,	Atty for Claimant.
	vs	
	Cherokee Nation.	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 30th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cheroke Nation, and that their claim therefor should be and the same is hereby rejected; said claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Beany Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has hat been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of hem are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones' et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B. C. Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 496, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Malinda Johnson, D 227;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and perfect transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 507
Nellie Brown et al	Cherokee Freedmen D 51[illegible]
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Gil and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lee Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Grooms for herself and minor children, Martha, Dora, Peter W., Lourretha and Ennis Grooms; by Henry Nash for himself; by Edward Nash for himself; by Carrie Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Martin; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Hettie Martin; by Nellie Brown for herself and minor children, Doris, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Anna Drumbean, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lydia Carter for herself; by Allie McIlroy, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellen Grooms, Jane Webb, Henry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1865.

The evidence further shows that Ella Hunter is the daughter of Rose Mango, sister of Ellen Grooms, one of said principal applicants, and claims right to enrollment through her; that the said Rose Mango was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin was duly identified in the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in October, 1900, and that the applicant, Ellen Grooms, died in October, 1901; and that the applicant, Ennis Grooms, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Lucie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Rena Grooms, Peter W. Grooms, Euretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Monie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Barrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McIlroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept. 3-1908.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

RECEIVED
FEB - 1917
820
CHIEF CLERK, CITIZEN TRIBES

WASHINGTON, January 29, 1917

I, E. B. Meritt, Assistant, Commissioner of Indian Affairs, do hereby certify that the paper s hereto attached are true copies of the originals as the same appear of record in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

E B Meritt

Assistant Commissioner.

G.

6—1931

CHEROKEE FREEDOM. L 22

IN RE

Application for Enrollment of

INFANT CHILD

Annie Johnson

as a citizen of

CHEROKEE Nation.

Approved MAY 10 1901

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 10 1901

CHEROKEE FREED

IN RE

Application for Enrollment of

INFANT CHILD

Peter McK Johnson

as a citizen of

CHEROKEE Nation.

Approved MAY 10 1901 190

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 10 1901

Acting Chairman.

E to Cherokee Freedman 822

IN RE

Application for Enrollment of

INFANT CHILD

Reuben Johnson

as a citizen of

CHEROKEE Nation

Approved MAY 10 1901

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 30 1901

Acting Chairman.

69227

CHEROKEE FREEDMAN. D 227

IN RE

Application for Enrollment of

INFANT CHILD

Julia Johnson

as a citizen of

Cherokee Nation.

Approved [illegible] 1902

C. R. Breckinridge

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Malinda Johnson,
Vinita, I.T.
Cherokee F-D-227
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Rexie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby.

Chairman.

Enc. D-6

COPY.

Cherokee Freedom
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-86.

COPY.

Cherokee Freedmen
D-227.

Muskogee, Indian Territory, September 30, 1903

Malinda Johnson,

Vinita, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 3, 1903, granting, among others, your application for the enrollment of yourself and minor children, Lottie, Lizzie, Nellie, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, and dismissing your application for the enrollment of your minor child, George Johnson, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Chairman.

Register.
Enc. D-79

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hughes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clay Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-58.

Refer in reply to
the following:
LAND
63878-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Lash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Thomson, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John M. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-227.

Muskogee, Indian Territory, April 18, 1904.

Malinda Johnson,

Vinita, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, as Cherokee freedmen, and dismissing your application for the enrollment of your minor child, George Johnson, as a Cherokee freedman, he having died in January, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 1[illegible], 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 3, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Nane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Rexie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Harry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233---------- Mary Harris, et al.,
F-1234---------- Joseph Curry,
F-1235---------- Ostella Martin, et al.,
F-1236---------- Harrison Curry,
F-1281---------- Eliza Gaines,
F-1282---------- Jane Webb,
F-1283---------- Mary Mabry, et al.,
F-1284---------- Berry Thompson, et al.,
F-1285---------- Julia Nash,
F-1286---------- Georgia Jones, et al.,
F-1287---------- John H. Nash, et al.,
F-1288---------- Malinda Johnson, et al.,
F-1289---------- Martha Greene, et al.,
F-1290---------- Berry Nash,
F-1291---------- Edward Nash,
F-1292---------- Carrie Harris, et al.,
F-1293---------- Ella Humes,
F-1295---------- Michael Martin,
F-1296---------- George Martin, et al.,
F-1297---------- Joshua Martin,
F-1298---------- Edward Brown, et al.,
F-1299---------- Israel Martin, et al.,
F-1300---------- Nellie Brown, et al.,
F-1301---------- Harriett Tucker, et al.,
F-1302---------- Lydia Carter,
F-1303---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee Freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates , describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

approved by the department september 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the commissioner on July 27, 1904, showing that he had died on september 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was december 24, 1902. Aaron Mart Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citi enship by the Cherokee commission on Citizenship on september 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee commission were made a part of the record in this case prior to the rendition of a decision therein. It is shows that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can e identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends thatthe motion filed on behalf of the Nation as to all of the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1288

COPY

Muskogee, Indian Territory, March 7, 1907.

Malinda Johnson,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and children, among others, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby.
Commissioner.

JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl.M-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Elisa Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Tayler	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.B.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T.
47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. Youare requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1287.

Muskogee, Indian Territory, June 8, 1907.

Malinda Johnson,

Vinita, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-8.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

C. F. D 227

Affidavits of birth as to George and Julia Johnson handed in by Lewis T. Browne. Returned for correction 1/11/02

REGISTERED.
APR
1902
MUSKOGEE

Cher Fr 1289

See Cher Fr 1281-1284 and R 233

Cher Fr 1289

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May, 9th 1901 .

In the matter of the application of Eliza Grooms for the enrollment of herself and five children as Cherokee Freedmen: She being sworn by Commissioner T. B. Needles, testified as follows:

W. W. Hastings for the Cherokee Nation.
Mellette & Smith for the applicant

Examination by Com'r Needles:

Q What is your name? A. Eliza Grooms.
Q How old are you? A. 26.
Q What is your post office address? A. Blue Jacket.
Q In what district do you live? A. Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you desire to have enrolled besides yourself? A. Five children
Q What are the names of your children? A. Martha.
Q How old is she? A. 11.
Q Next child? A. Donie.
Q How old is she? A. 7.
Q Next child? A. Peter Watson.
Q How old is she? A. 5.
Q Next child? A. Luaretha
Q How old is she? A. 3.
Q Next child? A. Ennis.
Q How old is this one? A. One year old.
Q Are you a recognized citizen of the Cherokee Nation? A. Yes sir.
Q Is your name on the authenticated roll of 1880? A. Yes sir
Q Have you ever applied to be enrolled as a Freedman of any other tribe?
A No sir.
Q Are you married? A. Yes sir.
Q What is the name of your husband? A. Gus Grooms.
Q Is he a citizen? A. No sir.
Q What is your fathers name? A. Henry Nash.
Q What is your mothers name? A. Eliza Gaines.
Q Are these children all alive and living with you atthis time? A. Yes sir.
Q How long have you lived in the Cherokee Nation? A. All my life.

The 1880 authenticated roll of the Cherokee Nation examined ad the name of the applicant not found hereon.

The 1896 census roll of the Cherokee Nation examined and the name of the applicants not found thereon.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicants idenified thereon as follows:
Page 162, No. 3995, Eliza Grooms, Cooweescoowee district.
Page 162, No. 3996, Martha Grooms, " "
Page 162, No. 3997, Dena Grooms, " "

By Edgar Smith, atterney for Applicant.

Q Eliza Gains is your mother? A. Yes sir.
Q Is she the same Eliza Gaines who testified here in her own behalf? A. Yes sir.
Q Are you related to Berry Thornton? A. Yes sir he is my uncle.
Q Are you related to Jane Webb? A. Yes sir.
Q What relation is she to you? A. My aunt.

By W. W. Hastings, Cherokee atterney:

Q Where were you born? A In the Cherokee Nation

Q What part? A. I dont know.
Q Where were you when you were old enough to remember? A. On Cabin Creek
Q How old are you? A. 38.
Q Where were you married? A. On Timber Hill.
Q Have you always lived in the Cherokee Nation? A. Yes sir.
Q Never lived in Kansas? A. No sir.
Q Were all these children born here? A. Yes sir.

Com'r Needles,- Eliza Grooms applies for the enrollment of herself, her husband and five children, Martha, Donie, Peter Watson, Lueretha and Manis Grooms as Cherokee Freedmen. Upon an examination of the authenticated roll of 1880 her name cannot be found; her name and the names of her two oldest children, Martha and Donie Grooms are found on the Kerns-Clifton pay roll. They are all duly identified and make satisfactory proof as to residence, and will be listed for enrollment as Cherokee Freedmen of a doubtful card; it will be necessary for her to file with the Commission certificates of the birth of her three youngest children, their names not being on the Kerns-Clifton roll. By agreement of counsel for the Cherokee Nation and for the applicant, the testimony taken in the case of Eliza Gaines on D. card No 320, and Thompson D. Card No. 223, is hereby referred to and made a part of this case. When the Commission arrives at a final decision in this case the applicant will receive a copy of same, mailed to him at his present post office address.

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Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 10th of May, 1901 at Vinita, I. T.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
9 1901
CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Blue Jacket

District Coo

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

11. Name of wife Eliza Grooms Age 26

Owner's name ..... Citizenship .....

Year R C Page 162 No. 3995 District Coo

Parents:

Father Henry Nash - dead Citizenship .....

Mother Eliza Gaines - living Citizenship .....

Names of Children:

2	Martha Grooms	Year R C	Page 162	No. 3996	Dist. Coo		11
3	Dora "	Year "	Page 162	No. 3997	Dist. "		7
4	Peter W. "	Year "	Page	No.	Dist.		6
5	Lucretia "	Year	Page	No.	Dist.		3
6	Ennis "	Year	Page	No.	Dist.		1
8.		Year	Page	No.	Dist		
9.		Year	Page	No.	Dist.		
10.		Year	Page	No.	Dist.		
11.		Year	Page	No.	Dist.		
12.		Year	Page	No.	Dist.		

Application made by No. 1 Stenographer Chas. von Weise

4, 5 and 6, affidavits of birth required.

Mellette and Smith, attys. for applicants.

COMMISSIONERS.
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Eliza Grooms et al, for enrollment as Freedmen of the Cherokee Nation, one copy of the original testimony of May 9th, 1901.

Mellette Smith

Attorney for Applicants.

Cherokee F. #D228.

To be filed in the case of Eliza Grooms C. F. D. 238.

= = = =

Q Now, how many came along in that crowd? A. There was not nobody but my and mye sister, we hired a man to bring us.
Q What was your sister's name? A. Jane Webb, she was Jane Brown the at that time.
Q You hired a wagon did you? A. Yes sir.
Q,Do you remember the man's name you hired? A. Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A. We staid there about, we come in the fall before Christmas, staid there until I got able to travel again.
Q About how long? A. I guess it was about nearly, over six months,a year;we staid there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A. Yes sir, and the children.
Q What children did you had at that time? A. I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A. Yes sir.
Q Who did you work for at Fort Gibson? A. I washed for soldiers.
Q And where did you go from Fort Gibson? A. I staid there about a year and come up about Mr. Bell's.
Q Mr.Hooley Bell'S A Yes sir.
Q Where was he living at that time? A. I can't tell you, but it was somewheres wherethe old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes sir.
Q How long did you stay with Hooley Bell? A. I staid until along in the fall.
Q You staid there from the summer until the fall? A. Yes sir,
Q About six or eight months? A. Yes sir.
Q And that must have been in the fall of 1867 when you staid up at Hooley Bell's? A I dont know.
Q Now, where did you go? A. I went to Chetopa and staid there.
Q Chetopa, Kansas? A. Yes sir, right there across the line.
Q You didn't go into the state of Kansas? A. No sir.
Q You only went up near Chetopa on the Cherokee side? A Yes sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We staid there a long time.
Q A number of years? A. Yes sir, until we moved down here.
Q Until you moved where you live now? A. Yes sir.
Q After you left Hooley Bell's place you went up to the Larkins place? A. Yes sir.
Q Are any of Mr. Larkins folks alive now? A. Not as I know of.
Q He had a family did he? A. Yes sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of theCherokee Nation? A. I dont know, he hired us to work.
Q Has you ever lived in Kansas since the war? A. No sir.
Q You never went up there at all? A. No sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A. Yes sir; I dont live there now, I live on Timber Hill near Bluejacket.
Q,You mean you come from the Larkins place down near Bluejacket? A. A Yes sir.
Q What direction is that, is it on the Cooweescoowee side? A. Yes sir
Q Towards the sunset from Bluejacket? A, Yes sir.
Q Did your sister go with you all these round you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A. They was with me some and I had

some hired out.
Q You staid about three or four years at the Larkins place? A. Yes sir
Q Did you have any neighbors around there? A. There was no neighbors but one family.
Q What was that family? A. John Shafer
Q Did he live in the Cherokee Nation? A Yes sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles
Q Down on the Cherokee side? A. Yes sir.
Q South of Chetopa? A. Yes sir.
Q Were you living there when the railroad come there? A. No sir, wasn't no railroad, living there long before the railroad was built
Q You were living there when the railroad was built? A. Yes sir, there wasn't no houses when the railroad come through.
Q Were you living at Larkins when the railroad come ~~through~~ there.
A Yes sir.
Q Now, Aunty, how far from the railroad track, the M. K. & T., were you living? A I dont know, we could not hear the train.
Q On the south side of the track? A. That was on this side of the track ever in Cooweescoowee.

By Mr. Smith-

Q Who are your children? A John Henry.
Q John Henry what? A. John Henry Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A. Three is dead.
Q How many are alive now that you name? A. (No response.)
Q You dont mean that any of those whose names you give are dead? A.
A No sir.
Q Do they go by this name name; are they still named Nash, or are they married? A They are married.
Q What are the named of the girls? A. Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A. There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Charley Chambers.
Q How old are you Mr. Chambers? A 78'
Q What is your post office address? A. Hudson.

By Mr. Smith-

Q Do you know Eliza Nash or Eliza Gains? A Yes sir.
Q How long have you known her? A. Well, I have known her somewheres about '68
Q Where did you know her? A. When I first known her she was 12, my 1 first knowing her, I seen her at Fort Gibson.
Q Are you a Freedman? A. Yes sir.
Q Are you on the 1880 roll, or not? A. Yes sir.
Q Where were you during the war; did you go out of the Cherokee Nation?
A No sir; Yes sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A. Yes sir.
Q Do you remember when you got back to the Cherokee Nation? A. Yes sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side on the river
Q How long was it after you come back before you became acquainted

with or see Eliza Nash,or Eliza Gains? A Well I come back in, along, in the Summer and I come up from there and come up to ~~[illegible]~~ Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there,
Q About what season of the year was it you got back? A. Along in the summer, spring like.
Q Of 1865? A Yes sir.
Q And the following winter? A No it was the year we called there, that winter and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes sir.
Q Do you know her children, know what their names are all of them, or not? A. No sir; I dont know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

By W. W. Hastings-
Q Did you see her there then the one time, Mr.Chambers? A. No, sir,I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring ot summer? A Yes sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A. Yes sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A. It is the same winter after I come there; you see I staid thereall that summer down there to Fort Smith and along in the fall I come up there.
Q And that is thefall you saw her? A. Yes sir, that winter I seen her.
Q You know that? A. Yes sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865? A. Yes sir.
Q And say it was the next winter you saw her? A Yes sir, I staid that summer there at Fort Smith in the bottom, understand me right; I staid there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I staid there all fall and that fall I went down to Gibson, riding about as usual and staid around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A. Yes sir.
Q You remember seeing her? A Yes sir.
Q Well when did you next see her? A. I seen her agin a short ti,e after that I saw her there in a store the next time I saw her.
Q Whose store? A. I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you ~~[illegible]~~ know dont you, dont you recall.
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A. I never seen her from over there, I never seen her any more until I saw her up there where he is living now, at Timbered Hill.
Q How l_ng was that after you saw her at Fort Gibson? A. Four or five years.
Q You dont know where she had been in the meantime? A. No sir; but I dont think she had been anywhere but I heard of her living up by William Tucker's
Q You never did see her up there? A. No sir.
Q Have you ever been arrested? A. Yes sir.
Q What for? A. For several things.
Q How many times? A. Twice, three times, one time for selling bows and the next time time for selling cedar posts.
Q What Court? A. Cherokee; arrested on time by the United States court,
Q What for? A. For shooting at a man.
Q What was done with you? A. Never done anything with me.

Q Did they try you? A. Yes sir, never done anything.
Q What did they do with you in the Cherokee court? A Nothing, turned me aloose and let me go home.
Q Never was convicted? A. No sir.
Q You dont remember seeing anybody but this woman in 1880? A Oh I seen lots others.
Q I mean of her family? A If I did, I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles testified as follows:

Q What is your name? A. James Alberty.
Q What is your post office address? A. Chouteau.
Q How old are you James? A. I am near 70 or older, I dont know.
Q Are you a citizen of the Cherokee Nation? A Yes sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No sir.

By Mr. Smith_

Q Do you know Eliza Gains? A. Yes sir.
Q Sometimes called Nash? A I know her.
Q How long have you known her? A.I dont know how long, I known her when she was with her old Master, I dont know how long that has been.
Q Who was that? A. Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A. Yes, sir, south.
Q When did you return to he Cherokee Nation? A. I returned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was at that time? A.(No response)
Q When did you see Eliza Nash? A. When I came back.
Q When was the first time you saw her? A. At Gibson.
Q When? A. '66
Q Can you state at what time it was? . A In the fall.
Q Did you know any of her family, any of her children? A No sir, I could not tell anything about them.
Q Did you know her sister? A. Yes sir.
Q What was her sisters name? A. Lydia was one and Jane she was one and if I dont mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes sir.
Q Who did you see? A Lydia that I noticed.
Q That you remember? A Yes sir.
Q Do you know, of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? &.
A No sir, I dont know.

By W. W. Hastings—

Q Whom did you belong to when the war broke out? A. John Alberty.
Q John Alberty sold you out of here before the war? A. No sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war? A. Yes sir, I never belonged to anyone else that I know of.
Q He never sold you out? A. No sir.
Q Where were you living when the war came up? A. Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war came up? A. At Stover's
Q How far was that from where you were living? A. I trained horses right there at Wilson's
Q Whom did you train horses for? A. Trained horses for Jim Kell.
Q And you knew Eliza before the war? A. Yes sir.
Q What were you doing at Fort Gibson when you saw her there? A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.

Q Was Eliza living at Fort Gibson when you saw her? A. She was there washing; I dont know where she was living.
Q How do you happen to ~~see~~ remember seeing her? A. I stopped there where she was and talked with her.
Q Did you see her there just once? A. The next time I saw her, ask me
Q Where did you see her next? A. Cabin creek.
Q Where is that? A I dont know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A. Bill Tucker's
Q On Cabin creek? A. Yes sir.
Q When was that you saw her there? A I dont know, it may have been a year or maybe more.
Q She was living up there then? A. Yes sir, in the house not far from Mr. Tucker's
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I dont know.
Q She moved from where she lived on Cabin creek to where she lives now? A. Yes sir.
Q West of Bluejacket? A. Yes sir, west of Bluejacket.
Q Jim, were you ever tried for anythingby the Courts? A. No sir.
Q Never was arrested? A. No sir, not by Courts, I was not.
Q By Marshals? A No sir, I used to be a Marshal myself, I never was for any crime or any kind, never was.

Com'r Needles; Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this Commission except the Kern Clifton roll, and her name is found thereon according the the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

****

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 10th day of May, 190.

(signed) C. R. Breckinridge

Commissioner.

= = = = = = = = = = = = = = = = =

I, Chas. von Weise, upon my oath state that the above is a true copy of the original.

Chas von Weise

Subscribed and sworn to before me this the 23d of July, 1901.

Commissioner.

To be filed in the case of Eliza Greens, C. N. D. 228'

Department of the Interior,
Commission to the Five Civilized Tribes
Vinita, I. T. May 9th 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee freedman; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Berry Thompson.
Q How old are you, Mr. Thompson? A. About 48
Q What is your post office address? A. Bluejacket.
Q What district do you live in? A. Goweescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you desire to enroll besides yourself? A I got three children
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A. Leo.
Q How old is Leo? A 13.
Q The next one? A. Morrison.
Q How old is Morrison? A. Ten
Q Is that all? A. Yes sir.
Q What is your wifes name? A. Bell Thompson.
Q Is she a citizen? A. Yes sir.
Q Is she the mother of these children? A. Yes sir.
Q What was her fathers name? A. Nelston.
Q Did you ever apply to be enrolled by any other Nation ot tribe? A No sir.
Q Have you ever been recognized by the Cherokee Authorities as a freedman? A (No response)
Q Kinda half way? A. Yes sir, just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation? A. Yes sir
Q Is your name on the roll of 1880? A. No sir.
Q Is it on the Kern Clifton roll? A. Yes sir.
Q Were you married to Bell Thompson? A. Yes sir.
Q Have you any certificate of marriage? A. No sir.
Q Have you any proof of marriage? A. Yes sir.
Q Who can you prove your marriage by? A Her sisters.
Q Are they here? A. Yes sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles testified as follows-

Q What is your name? A. John Nash
Q What is your age? A. 35
Q What is your post office address? A. Bluejacket.
Q Do you know Berry Thompson? A. Yes sir.
Q Do you know his wife, Bell? A Yes sir.
Q Do you know whether they were married or not? A. Yes sir they was married.
Q How do you know? A. Old man Bluejacket married them.
Q Did you see him marry them? A. Yes sir.
Q Was Bluejacket a minister? A Yes sir, uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A. Yes sir.
Q Is Bell Thompson living now, his wife? A Yes sir.
Q Did they have any children? A Yes three.
Q Born to them while they were living together as man and wife? A Yes sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A. Leo and Morris.

Berry Thompson, the applicant recalled, testified as follows- Examined by Mr. Smith, of the firm of Smith & Mellette attorneys for applicants-

~~Q Have you had this year-~~

Q How old did you say you are, Berry? A. 46.
Q Were you a slave? A. Yes sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gains? A I am her brother
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A. Yes sir.
Q By whom were you taken out? A. My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A. My sister, Eliza.
Q When your sister Eliza Gains returned? A. Yes sir.
Q Have you a farm? A. Yes sir!
Q Were is it? A. It is three miles west of Bluejacket.
Q How long have you had it? A. About 15 years.
Q You say you are on the Kern Clifton roll? A. Yes sir.

By W. W. Hastings, Cherokee representative—

Q Where were you married? A. I was married about three miles and a half from Bluejacket at the lower end of Timber Hill.
Q You had heard the statement of your sister, Eliza and sister Jane, did you go the rounds with them? A. Yes sir.
Q Did you ever live in Kansas? A. I worked up there
Q Where? A. I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up here? A. I worked up there off and on, c cooked; I was up there three months I guess.
Q You were married in the Nation? A. Yes sir.
Q Did you make your home with your sister before your marriage? A. I worked out a good deal of the time, worked at Vinita, some, I lived with my mother.
Q What was your mothers name? A. May Stover.
Q Did she come back from Texas with you? A. Yes sir.
Q With your two sisters too? A. Yes sir.
Q Your mother was along too? A Yes sir.
Q Is your mother alive? A. No sir.
Q Where did she die? A. She died up at Timbered Hill.
Q About how long ago? A. About 13 years.
Q You made your home with her until she died? A. Yes sir.
By Mr. Smith:
Q Where was it your mother died? A. She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A. Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not? A. I dont know for sure whether she was or not.
Q How long has it been since she died? A. About 15 years.

The 1880 authenticated roll of Cherokee freedmen examined and applicant's names not found thereon.

The Kern Clifton roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:
Page 162, #4008, Jerry Thompson, Cooweescoowee district.
page 162, #4009, Elmer Thompson, Cooweescoowee district.
page 162, #4010, Lee Thompson, Cooweescoowee district.
Page 162, #4011, Morrison Thompson, Cooweescoowee district.

Com'r Needles,— Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Lee and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kern Clifton Pay roll. The names of his three children are also found upon said roll. He is duly identified according to he page and number of said roll and makes satisfactory proof as to residence. By agreement of counsel, in this case, the record in the case of Eliza Gaines, D. #[illegible] is referred to and made a part of the record in this case. The names of Berry Thompson and his three children, as enumerated herein, will now be listed for upon a doubtful

card ward for the further consideration of the Commission. When the decision on the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rossen.

Subscribed and sworn to before me this 16th day of May, 1921.

(signed) W. R. Breckinridge,

Commissioner.

* *,* *

I, Chas. von Weise, upon my oath state that the above is a true copy of the original.

Chas von Weise

Subscribed and sworn to before me this 22 d of July, 1921.

Commissioner.

7 D 228

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the .....day of ..... A. D. 1901.

Given under my hand this..... day..... A. D. 1901.

.....

Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the .....day of ....., 1901.

.....

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the.....day of A.D.1901

.....

Subscribed and sworn to before me this.....day of .....A.D.1901.

.....

ACTING CHAIRMAN
SEP 13 1901
FILED
COMMISSION TO ... TRIBES

NOTICE!

IN THE MATTER OF The application of Eliza Grooms for enrollment as a Cherokee Freedman:

Case No. F. D. 228

To Eliza Grooms or Mellette & Smith her attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of ..... Indian Territory, on the following dates, to-wit: Oct 12th A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

at 8 o'clock A. M.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12th day of Sept., 1901.

L B Nell

Attorneys for the Cherokee Nation.

File with case of Eliza Grooms, et al., C.F.-D.#228.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~[illegible]~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time; I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 years old.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir.
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~xxxxx~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behald of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the w ar, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in xxxxx Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/ Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your a fidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the af idavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron know and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 227, Eliza Grooms et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cheroke Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 28th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,)	
	Eliza Stover,)	
	Jane Stover,)	PETITION FOR CITIZENSHIP.
	Berry Stover,)	
	Lydia Stover,)	
	Angelina Stover,)	J. H. Bryan,
	Mary Stover,)	Atty for Claimant.
	vs)	
	Cherokee Nation.)	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cheroke Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them, that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has hat been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of hem are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones' et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mollette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1903.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B O Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 486, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Eliza Greene, D 828;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Cher
Supp'l to # Freed D 228

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., April 9, 1903.

In the matter of the application of ELIZA GROOMS, for the enrollment of herself and her children, MARTHA, DONA, PETER W., LUERETHA and ENEIS GROOMS, as Cherokee Freedmen:

S. M. STUBBS, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q State your name ? A S. M. Stubbs.
Q How old are you ? A Fifty three.
Q What is your post office ? A Bluejacket.
Q Are you a citizen of the Cherokee Nation ? A No sir.
Q Do you know or did you know Eliza Grooms ?
A Yes sir, I knew her.
Q She was a Cherokee Freedman ? A Yes sir, she was a daughter of Mrs. Nash.
Q Daughter of Eliza Gains, it used to be Eliza Nash ? A Yes sir.
Q Is Eliza Grooms dead ? A Yes sir.
Q How long has she been dead ? A I think about a year and a half, that's just about as near as I can recollect.
Q It was before the first of last September ?
A Oh yes sir, before that.
Q Where did she die ? A Out there in the timber hills.
Q Where she has been living ? A Yes sir, where she lived ever since she was a little girl.
Q Have you seen her children ? A Yes sir I have seen them I aint personally acquainted with them.
Q Are they Martha, Dona, Peter and Lueretha ? A Yes sir.
Q Now are you guardian for these children ? A Yes sir, I was appointed by the court.
Q On whose petition ? A Gus Grooms' their father.
Q Is he living ? A Yes sir he's living.
Q Is he a colored man ? A Yes sir.
Q He is not a citizen of the Cherokee Nation ?
A No sir, she married him; he is not a citizen of the nation.
Q How did he come to have you appointed guardian ?
A Well he couldn't give bonds, and it seems there is nobody to take care of them, and I did it against my will, and I have wished I hadn't done it.
Q You say the father petitioned the court to have you appinted ?
A Yes sir.
Q You say you are not acquainted with these children ?
A No, not particularly acqyainted with them, I have seen them frequently, but to say I am acquainted with them, I can't say it.
Q Do you know the name of the second one ? A He always called her Dora to me, and he give me their names, I give that to Mr. Wilson.
Q How old is this second child ? A I don't know, the oldest one is fourteen years old, and I don't know just how their ages do run.
Q How many children has he living ? A Just the four, at least that's all he claims.
Q This child that is named in the letters here as Dora is probably the one he enrolled as Dona ? A Yes sir possibly it was.
Q The rest are all girls ? A Yes sir all but Peter.

The Commission: Witness presents letters of guardianship issued by the United States Court for the Northern District of Indian Territory, on March 20, 1903, for Martha, Dora, Peter W. and Luoretha Groom, minors, who are considered to be the same persons enrolled by this Commission under the names of MARTHA, DONA, PETER W. and LUERETHA GROOMS

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this July 28, 1903.

Samuel Foreman.

Notary Public.

~~Enc 119~~ 8D228

IN RE
THE DEATH OF

Eliza Young

a citizen of the

Cherokee Nation.

Approved March 6 1903

Commissioner

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Eliza G Vouns. (Here insert name of deceased)

a citizen of the Cherokee Nation, who formerly resided at or near Bluejacket (Here insert name of post office), Ind. Ter., and died ~~on the~~ in September day of 1902.

AFFIDAVIT OF RELATIVE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Eliza G Vouns, on oath state that I am 63 years of age and a citizen, by adoption of the Cherokee Nation; that my post office address is Bluejacket (Here insert name of post office) Ind. Ter.; that I ~~am~~ was the mother of (State relationship as, the father; an uncle; a cousin, etc.) Eliza G Vouns. (Here insert name of deceased), who was a citizen, by adoption, of the Cherokee Nation; and that said Eliza G Vouns (Here insert name of deceased) died ~~on the~~ in ~~day of~~ September, 1902.

Eliza her G Vouns mark

WITNESSES TO MARK:

(Must be Two Witnesses) { R. B. Berry, Edward L. Funk

Subscribed and sworn to before me this 6th day of Mch. 1903.

John A. Rosson, Notary Public.

AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Sevier Johnson, on oath state that I am 49 years of age, and a citizen, by adoption, of the Cherokee Nation; that my post office address is Vinita (Here insert name of post office) Ind. Ter.; that I was personally acquainted with Eliza G Vouns (Here insert name of deceased) who was a citizen by adoption, of the Cherokee Nation; and that said Eliza G Vouns (Here insert name of deceased) died ~~on the~~ in day of September, 1902.

Sevier his X Johnson mark

WITNESSES TO MARK:

(Must be Two Witnesses) { R. B. Berry, Edward L. Funk

Subscribed and sworn to before me this 6th day of Mch. 1903.

John A. Rosson, Notary Public.

DEPARTMENT OF THE INTERIOR?
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 233
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 31[illegible]
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Ronie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Gil[illegible] and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lew Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Crooks for herself and minor children, Martha, Dora, Peter W., Lorretha and Ennis Crooks; by Henry Nash for himself; by Edward Nash for himself; by Curris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Hettie Martin; by Nellie Brown for herself and minor children, Tomie, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Clem Martin, Lena Lambert, Henrietta Bean, George Tucker and Floy Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah E. Tucker; by Lyda Martin for herself; by Allie Holder, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellen Grines, Jane Webb, Henry Martin, Lydia Carver, Aaron Martin, George Martin, Israel Martin, Julia Hunt and Georgia Jones are the principal applicants herein; and that all the other applicants in whose several cases have been born since 1880 and, with the exception of Ella Jones and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1867.

The evidence further shows that Ella Jones is the daughter of Rose Mange, sister of Ellen Grines, one of said principal applicants, and claims right to enrollment through her; that the said Rose Mange was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing on the Cherokee Nation on July 19, 1867.

The said Alice Martin is fully identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1880, or from date of birth where born since the year 1880, up to and including the date of the application herein, except during occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in March, 1901, and that the applicant, Ella Crooks, died in October, 1901; and that the applicant, Ennis Crooks, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Caines, Jane Webb, Mary Webb, Frank Webb, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Hess, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John M. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Melinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Laureta Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hughes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Ronie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Barnett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McIlroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 493), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Minnie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. A. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 5-1908.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Eliza Grooms,
Bluejacket, I.T.
Cherokee F-D-228
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Tahlequah, Indian Territory, May 12, 1903.

Eliza Gaines,

Bluejacket, Indian Territory.

Dear Madam:

The Commission is heretofore in receipt of an affidavit showing the death, in September, 1902, of your daughter, Eliza Grooms.

There is enclosed you herewith another blank form of affidavit which you are requested to have properly executed and forward to the Commission showing, if possible, the exact date of the death of said Eliza Grooms.

Please give this matter your earliest attention.

Respectfully,

Commissioner in Charge
Cherokee Land Office.

Enc. 1 D.C.
MFM

Cherokee N. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nellie, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Louretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Minnie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Louretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. ADDOLBS,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the Attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

Cherokee Freedmen
D-228.

Muskogee, Indian Territory, September 30, 1903.

Eliza Gaines,

Bluejacket, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 3, 1903, granting, among others, the application for the enrollment of Martha, Dona, Peter W. and Leuretha Grooms, and dismissing the application for the enrollment of Eliza and Ennis Grooms, as Cherokee freedmen. There has heretofore been furnished the attorney in the case, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished you by the attorney for the Nation.

The decision, with the record of proceedings in the case, has this day been transmitted to the Secretary of the Interior for

his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Weedles.

Commissioner in Charge.
Chairman.

Register.
Enc. L-80.

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa M. Sango, who was a sister of Eliza Gaines. Rosa M. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM

(Signed) A. C. Tonner.

5 enclosures.

Acting Commissioner.

D C 10862-1904.
ITD 833-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John M. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan
Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-228.

Muskogee, Indian Territory, April 18, 1904.

Martha Grooms,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, the application for the enrollment of yourself, Dona, Peter W. and Leuretha Grooms as Cherokee freedmen, and dismissing the application for the enrollment of Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-230 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 3, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dena, Peter W. and Lauretha Grooms, Mary and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Glen Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lettie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter, and Jordon Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233---------- Mary Harris, et al.,
F-1234---------- Joseph Curry,
F-1235---------- Ostella Martin, et al.,
F-1236---------- Harrison Curry,
F-1281---------- Eliza Gaines,
F-1282---------- Jane Webb,
F-1283---------- Mary Mabry, et al.,
F-1284---------- Berry Thompson, et al.,
F-1285---------- Julia Nash,
F-1286---------- Georgia Jones, et al.,
F-1287---------- John H. Nash, et al.,
F-1288---------- Malinda Johnson, et al.,
F-1289---------- Martha Grooms, et al.,
F-1290---------- Berry Nash,
F-1291---------- Edward Nash,
F-1292---------- Carrie Harris, et al.,
F-1293---------- Ella Humes,
F-1295---------- Michael Martin,
F-1296---------- George Martin, et al.,
F-1297---------- Joshua Martin,
F-1298---------- Edward Brown, et al.,
F-1299---------- Israel Martin, et al.,
F-1300---------- Nellie Brown, et al.,
F-1301---------- Harriett Tucker, et al.,
F-1302---------- Lydia Carter,
F-1303---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of those motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Estella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John W. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
34607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callie West,
3877	Callie S West,
4079	Henry West,
4080	Callie S West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West

Roll No.	Name.
4088	Martha West,
4089	Vinita West,

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Elima Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite numbers 3536 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 18, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 26, 1892, they are not entitled

to enrollment as citi zens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 13, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905(Land 38933-1905), and affirmed by the Department August 5, 1905(I.T.D. 7 76-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicant.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 13[illegible]-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY.

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Mart Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shows that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can e identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the Attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all of the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

KWE-W

JPJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106485-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1289

COPY

Muskogee, Indian Territory, March 7, 1907.

Guss Grooms,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment, among others, of your minor children, Martha, Dona, Peter W. and Leuretha Grooms, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

Commissioner.

JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl.M-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B.

Commissioner.

Encl.H-20
JMH

D.E.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T.
47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. Youare requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

GAW-GH. Acting Commissioner.

Cherokee F 1289.

Muskogee, Indian Territory, June 8, 1907.

Martha Grooms,

Bluejacket, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself, your sister and brothers as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-9.
S.W.

Acting Commissioner/

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

LAND OFFICE
WHA-JMB 9-6-16

Requesting copy of birth affidavit of Louritha Grooms, Cherokee Freedman, Roll No. 3566.

September 6, 1916.

The Honorable,

The Commissioner of Indian Affairs.

Dear Mr. Commissioner:

For use in this office in making certified copies, you are kindly requested to furnish me with a photographic copy of the birth affidavit of Louritha Grooms, who is enrolled as a Cherokee Freedman, at Roll No. 3566.

The original birth affidavit in this case was forwarded to the Department on September 3, 1903, with the record in the consolidated case of Eliza Gaines, and others, for enrollment as Cherokee Freedman.

Sincerely yours,

Superintendent for the
Five Civilized Tribes.

JBA,
copy of above received 10/2/1916
made copy for order no. 32054
JK

Cher. Fr. Enroll. Jkt. 1289

over.

LAND OFFICE
WHA-JMB 9-6-16

In re birth affidavit
of Louritha Grooms, Cherokee
Freedman, No. 3566.

September 6, 1916.

Mr. R. E. Armstrong,

Vinita, Oklahoma.

Dear Mr. Armstrong:

Referring to your order for a certified copy of the birth affidavit filed in the case of Louritha Grooms, Cherokee Freedman, Roll No. 3566, you are advised that the original birth affidavit was forwarded to the Department for its consideration in September 1903, with other papers in the record of the consolidated case of Eliza Gaines, et al, for enrollment as Cherokee Freedmen, and I am therefore unable to furnish you with a certified copy at this time. However, I have requested the Department to furnish this office with a photographic copy of this birth affidavit, and as soon as same is received I shall be pleased to prepare and forward to you a copy thereof.

Sincerely yours,

Superintendent for the
Five Civilized Tribes.

Cher Fr 1290

See Cher Fr 1281-4

Cher Fr 1290

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May, 8th 1901.

In the matter of the application of Berry Nash for enrollment as a Cherokee Freedman; he being sworn by Commissioner T. B. Needles, testified s as follows:

W. W. Hastings, attorney for the Cherokee Nation,
Mellette & Smith attorneys for the applicant .

Examination by Commissioner T. B. Needles:

Q What is your name? A. Berry Nash.
Q What is your age? A. 22.
Q What is your post office address? A. BlueJacket.
Q In what district do you live in? A. Cooweescoowee
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you desire to have enrolled besides yourself? A. Just myself.
Q Are you married? A. No sir.
Q Never have been married? A. No sir.
Q Have you ever applied for enrollment as a ~~Cherokee~~ Freedman of any other tribe or nation? A. No sir.
Q Have you ever drawn any money from any other Nation? A. No sir.
Q Have you been recognized as a Cherokee Freedman by the Cherokee authorities? A. Yes sir.
Q Is your name on the roll of 1880? A. Yes sir.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

Q Did you draw what is known as the Cherokee Strip money? A. Yes sir.
Q What is your father's name? A. John Henry Nash.
Q Is he living? A. No sir.
Q What is your mothers name? A. Eliza Gaines

By Edgar Smith, attorney for Applicant:

Q Is she the same Eliza Gaines who testified here in her own behalf? A. Yes sir.
Q Are you any kin to Berry Thompson ? A. Yes sir he is my uncle.
Q Are you any kin to Jane Webb? A. Yes sir she is my aunt.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Is your name on the Kerns Clifton roll? A. Yes sir.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant identified thereon as follows:
Page 161, No. 5969, Berry Nash, Cooweescoowee district.

By Com'r Needles,-Berry Nash applies for the enrollment of himself as a Cherokee Freedman; his name cannot be found on the authenticated roll of 1880, but his name is found on the Kerns Clifton roll and he is duly identified thereby according to the page and number of the roll as indicated in the testimony. By agreement of counsel for the Cherokee Nation and for the Applicant, the testimony taken in the matter of the enrollment of Eliza Gaines on D. Card No. 228, and that of Berry Thompson on D. Card No. 235, is referred to and ordered to be made a part of the record in this case. The said Berry Nash will be placed on a doubtful card awaiting further information of the Commission, and when the Commission arrives at a fina l decision in this case he will be furnished a copy of same by mail at his post office address.

Berry Egan
4,93

Chas. Van Voise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. Van Voise.

Subscribed and sworn to before me this the 10th of June May, 1901 at Vinita, I. T.

Commissioner.

E

A 19221

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
[illegible] 9 1901
ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Bluejacket I.T.

District Coo

1. Name Perry Nash Age 22

Owner's name Citizenship

Year Ad. Page 161 No. 3969 District Coo

Parents:

Father Jno. H. Nash - dead Citizenship

Mother Eliza Gaines - living Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by No. 1 Stenographer Chas. von Weise

Mellette and Smith, Attys for applicant.

Ltr to 220 / 1020

D 11.9

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Berry Nash for the enrollment of himself as a Freedman of the Cherokee Nation, one copy of the original testimony of May 9th, 1901.

Nicholle Smith

Attorney for Applicants.

Cherokee F. #D229

To be filed in the application of Berry Nash, C. F. D. 229.

* *

Department of the Interior,
Commission to the Five Civilized Tribes
Vinita, I. T. May 9th 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Eliza Gaines.
Q How old are you? A. I dont know exactly how old.
Q How, about how old? A. I got it you can see it(60)
Q What is your post office address? A. Bluejacket.
Q In what district do you live? A. Cooweescoowee
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Have you ever applied to be enrolled as a freedman of any other nation or tribe? A. No sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee freedman? A. Yes sir.
Q In your name on the roll of 1880? A. I dont know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there.(referring to paper)
Q Children are all grown? A. Yes sir.

The 1880 authenticated roll of citizens of the Cherokee Nation examined and applicant.s name not found thereon.
The 1896 census roll of citizens on the Cherokee Nation examined and applicant.s name not found thereon.

Q Did you draw what is known as the strip money? A. Yes sir.

The Kern Clifton roll of citizens on the Cherokee Nation examined and applicant;s name found thereon,page 161 #3968,Eliza Gains, Cooweescoowee district.

By Mr. Smith, of the firm of Smith & Mellette,attorneys for applicants;

Q Were you a slave? A. Yes sir.
Q Who was your owner? A. John Stover.
Q Was he a Cherokee citizen? A. No sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A. With my Master.
Q Did you go out of the Nation? A. Yes sir
Q When did you get back? A. '66.
Q Do you remember what time in '66? A. I come back in the fall if '66 near Christmas.
Q Where did you come to, what part of the Cherokee Nation? A I come to Gibson.
Q Where do you live now? A. I live at Timbered Hill now.
Q Have you a place there? A Yes sir.
Q Farm? A. Yes sir.
Q Are you on the Kern Clifton roll? A I guess I am on it, you will have to look and see.

By W. W. Hastings, Cherokee representative—

Q Whom did you come back to the Cherokee Nation with? A. I come back with John Stover.
Q He brought you back? A. Yes sir, brought us to the Chickasaw Nation
Q Did he die in the Chickasaw Nation? A. Yes sir.
Q He didn't come back here after the war? A. No sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation? A. Yes sir, I hired a wagon to come on up to Gibson.
Q How many come along in that crowd? A. There was not nobody but my and my sister,we hired a man to bring us.
Q What was your sister's name? A. Jane Webb, she was Jane Brown at

that time.
Q You hired a wagon, did you? A. Yes sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A. We staid there about, we come in the fall before Christmas, staid there until I got able to travel.again.
Q About how long? A. I guess it was about nearly, over six months, a year; we staid there and drawed rations.
Q Whom did you stay with at Gibson? A. We was in a tent.
Q Just you two and her husband? A Yes sir, and the children.
Q What children did you have at that time? A. I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A. Yes sir.
Q Who did you work for at Fort Gibson? A. I washed for the soldiers
Q Where did you go to from Fort Gibson? A. I staid there about a yeat and come up about Mr. Bell's
Q Mr. Hooley Bell? A Yes sir.
Q Where was he living at that time? A. I cant tell you, but it was somewheres where the olf Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A. Yes sir.
Q How long did you stay with Hooley Bell? A. Staid until along in the fall.
Q You staid there from the summer until the fall? A. Yes sir
Q About six or eight months? A. Yes sie.
Q And that must have been in the fall of 1867 when you staid up at Hooley Bell's? A I dont know.
Q Now, where did you go? A I went to Chetopa and staid there.
Q Chetopa Kansas? S. Yes sir, right across the line.
Q You didn't go into the state of Kansas? A. No sit.
Q You only went up near Chetopa on the Cherokee side? A. Yes sir, on what they call.
Q Now, whom did you work for up there? A. We was working for ourselves, a man hired in to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A. We staid there a long time.
Q A number of years? A. Yes sir, until we moved down here.
Q Until you moved where you live now? A. Yes sir.
Q After you left Hooley Bell's place you went up to Larkins place? A Yes sir.
Q Are any of Mr. Larkins folks alive now? A. Not as I know of.
Q He had a family did he? A. Yes sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A. I dont know, he hired us to work.
Q Have you ever lived in Kansas since the war? A. No sir.
Q You never went up there at all? A. No sir, just go up there and come back
Q You come back from near Chetopa to where you live now? A Yes sir; I don't live there now, I live on Timber Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket? A Yes sir.
Q What direction is that is it on the Cooweescoowee side? A Yes sir
Q Towards the sunset from Bluejacket? A. Yes sir.
Q Did your sister go with you all these round you aretalking about? A She was with me pretty much of the time.
Q Did these children go with you? A. They was with me some and I had some hired out.
Q You staid about three or fouryears at the Larkins place? A Yes sir.
Q Did youshave any neighbors around there? A. There was no neighbors but one family.
Q What was that family? A. John Shafer.
Q Did he live in the Cherokee Nation? A. Yes sir.
Q Now, about how far from Chetopa were you,about how many miles to

the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A. Yes sir
Q southof Chetopa? A. Yes sir.
Q Were you living there when therailroad come there? A No sir, wasn't no railroad,living there long before the railroad was built.
Q You were living there when the railroad was built? A. Yes sir, t here wasn't no houses when the railroad was built come through.
Q Were you living at Larkins when the railroad come there? A Yes sir
Q Now, Aunty, how far from the railroad track, the M. K. & T.,were you living? A I dont know, we could not hear the train.
Q On the south side of the track? A That was on this side of the track over in Cooweescoowee.

By Mr. Smith-

Q Who are your children? A. John Henry.
Q John Henry what? A. John Henry Nash,Julia Nash,Lizzie,Georgia Ann, Malinda,Etta,Berry,the other three is dead.
Q How many? A. Three dead.
Q How many are alive now that you name? A. (No response)
Q You dont mean that any of those whose names you give are dead? A. A No sir.
Q Do they go by this name name;are they still named Nash,or are they married? A. They are married
Q What are the names of the girls? A Malinda Johnson and John Nash, he goes be his daddy's name, George Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A. There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of the applicant,sworn and examined by Commissioner T. B. Needles,testified as follows:

Q What is your name? A. Charley Chambers.
Q How old are you, Mr. Chambers? A. 78.
Q What is your post office addres? A. Hudson.

By Mr. Smith-

Q Do you know Eliza Nash or Eliza Gaines? A. Yes sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A. When I first known her she was at, my first knowing her,I seen her at Fort Gibson.
Q Are you a Freedman? A Yes sir
Q Are you on the 1880 roll, or not? A. Yes sir.
Q Where were you during the war? did you go out of the Cherokee Nation A No sir; Yes sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A. Yes sir.
Q Do you remember when you got back to the Cherokee Nation? A Yes sir
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gains? A Well I came back in, along, in the Summer and I come up from there and come up to Tahlequah where my old folks was living ans it was that winter about the next, I mean the next year,the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back? A. Along in the summer ,Spring like.
Q On 1865? A Yes sir.
Q And the following winter? A. No, it was the year we called therek that winter and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the

summer? A. Yes sir.
Q Do you know her children? know what their names are all of them or not? A. No sir; I dontknow; I never seen any of the children them, I didn'y know anybody but her and she was up there, up there drawing Government rations then when I seen her.

By W. W. Hastings-
Q Did you see her there then the one time,Mr. Chambers? A No sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer? A Yes sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A. Yes sir; I am positive I saw her there.
Q Are you positive about the year you saw her? A. It is the same winter after I come there; you see I staid there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes sir, that winter I seen her
Q You know that? A. Yes sir, I know that to be fact
Q You come here you say in the spring or summer of 1865? A Yes sir.
Q And say it was the next winter you saw her? A. Yes sir, I staid that summer there at Fort Smith in the bottom,understand me right; I staid there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I staid there all fall and that fall I went down to Fort Gibson, riding about as usual and staid around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A. Yes sir.
Q You remember seeing her? A Yes sir
Q Well when did you next see her? A I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A. I can't call the man's name now; but anyway it was the store George Snaders was working in; I guess you know dont you, dont you recall.
Q I was not there? A. There in Fort Gibson.
Q When did you next see her? A. I never seen her from over there, I never seen her any more until I saw her up there where she is living now,at Timber Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
QYou dont know where she had been in the meantime? A. No sir; but I dont think she had been anywhere but, I heard of her living up by William Tucker's
Q You never did see her up there? A. No sir.
Q Have you ever been arrested? A. Yes sir.
Q What for? A. For several things.
Q How many times? A. Twice,three times, one time for selling bows and the next time for selling cedar posts.
Q What Court? A. Cherokee court; arrested one time by the United States court.
Q What for? A. For shooting at a man.
Q What was done with you? A. Never done anything with me.
Q Did they try you? A Yes sir, never done anything.
Q What did they do with you in the Cherokee court? A Nthing, turned em aloose and let me go home.
Q Never was convicted? A. No sir.
Q You dont remember seeing anybody but this woman in 1866? A Oh, I seen a lots others.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY,being sworn and examined by Commissioner T. B. Needles,testified as follows:

Q What is your name? A. James Alberty.

Q What is your post office address? A. Chouteau.
Q How old are you, James? A I am near 70 or older, I dont know.
Q Are you a citizen of the Cherokee Nation? A. Yes sir, I drawed money, votes.
Q Is your name on the roll of 1880? A. No sir.

By Mr. Smith-

Q Do you know Eliza Gaines? A. Yes sir.
Q Sometimes called Nash? A. I know her.
Q How long have you known her? A. I dont know how long,I known her when she was with her old Master, I dont know how long that has been
Q Who was that? A. Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherkee Nation? A. Yes sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66, before the treaty was made.
Q Did you know where Eliza Nash was at that time? A.(No response)
Q When did you see Eliza Nash? A. When I come back.
Q When was the first time you saw her? A. At Gibson.
Q When? A. In '66.
Q Can you state at what time it was? A. In the fall.
Q Did you know any of her family,any of her children? A.No si I could not tell anything about them.
Q Did you know her sister? A. Yes sir.
Q What was her sisters name? A Lydia was one and Jane she was one and if I dont mistake,Mary was one that I recollect.
Q Do you remember seeing any of them? A. Yes sir.
Q Who did you see? A. Lydia that I noticed.
Q That you remember? A Yes sir.
Q Do you know of your own personal knowledge whether they, or any of them,went out of the Cherokee Nation, and if so, when they came back? A No sir, I dont know.

By W. W. Hastings-

Q Whom did you belong to when the war broke out? A. John Alberty.
Q John Alberty sold you out of here before the war? A No sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war? A. Yes sir, I never belonged to anyone else that I know of.
Q He never sold you out? A. No sir.
Q Where were you living when the war come up? A. Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stover's
Q How far was that from where you were living? A I trained horses right there at Wilson's
Q Whom did you train horses for? A. Trained horses for Jim Kell.
Q And you knew Eliza before the war? A. Yes sir.
Q What were you doing at Fort Gibson when you saw her there? A. Nothing just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you sa saw her? A. She was there wasking, I dont know where she was living.
Q How do you happen to remember seeing her? A. I stopped there where she was and talked to her.
Q Did you see her there just once? A The next time I saw her, ask me
Q Where did you see her next? A. On Cabin creek.
Q Where is that? A. I dont know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A. Bill Tucker's
Q On Cabin creek? A. Yes sir.
Q When was that you saw her there? A. I dont know, it may have been a year or maybe more.
Q She was living up there then? A. Yes sir, in the house not far from Mr Tucker's.

Q. Where did you see her the next time? A. Where she lives now.
Q About how long was that after that? A I dont know.
Q She moved from where she lived on Cabin creek to where she lives now? A. Yes sir.
Q West of Bluejacket? A. Yes sir, west of Bluejacket.
Q Jim, were you ever tried for anything by the Court? A. No sir.
Q Never was arrested? A. No sir, not by Courts, I wasnot.
Q By Marshals? A. No sir, I used to be a Marshal myself; I never was arrested for any crime of any kind, never was .

Com'r Needles: Eliza Gaines applies for the enrollment of her
551 self as a Cherokee freedman. Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this Commission except the Kern Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decission of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

******

J. O. Rosson, being first duly sworn, states that as stenographer to the Commision to the Five Civilized Tribes he corewtly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this10th day of May, 1901.

(signed) C. R. Breckinridge.

COMMISSIONER.

= = = = = = = = = = = = = = = = = =

I, Chas. von Weise, upon my oath that the foregoing is a full copy of the orriginal .

Chas von Weise

Subscribed and sworn to before me this 22 of July, 1901.

Commissioner.

To be filed in the case of Berry Nash, C. F. D. #828

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9th 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Berry Thompson
Q How old are you? Mr Thompson? A About 46.
Q What is your post office address? A. Bluejacket.
Q What district do you live in? A. Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you desire to enroll besides yourself? A. I got three children.
Q What are the names of your children? A. Oldest one is named Elmer Thompson.
Q How old is Elmer? A. 14
Q The next one? A. Leo.
QHow old is Leo? A. 15.
Q The next one? A Harrison.
Q How old is Harrison? A. Ten.
Q Is that all? A. Yes sir.
Q What is your wifes name? A. Bell Thompson.
Q Is she a citizen? A. No sir.
Q Is she the mother of these children? A. Yes sir.
Q What was her fathers name? A. Holston.
Q Did you ever apply to be enrolled by any other Natian or tribe?
A No sir.
Q Have you ever been recognized by the Cherokee ~~Nation~~ authorities as a freedman? A. (no response.
Q Kinda half way? A. Yes sir just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation? A. Yes sir
Q Is your name on the roll of 1880? A. No sir.
Q Is it on the Kern Clifton roll? A. Yes sir.
Q Were you married to Bell Thompson? A. Yes sir.
Q Have you any marrage certificate? A No sir.
Q Have you any proof of marriage? A Yes sir.
Q Whom can you prove your marriage by? A. Her sisters.
Q Are they here? A. Yes sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles testified as follows:

Q What is your name? A. John Nash.
Q What is your age?mA. 35.
Q What is your post office address? A. Bluejacket.
Q Do you know his wife, Bell? A Yes sir.
Q Do you know whether they were married or not? A. Yes sir, they was married.
Q How do you know? A. Old man Bluejacket married them.
Q Did you see him marry them? A. Yes sir.
Q Was Bluejacket a minister? A. Yes sir, uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A Yes sir.
Q Is Bell Thompson living now, his wife? A. Yes sir.
Q Did they have any children? A Yes three,
Q Born to them while they were living together as man and wife? A Yes sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON the applicant, recalled , testified as follows: Examined by Mr Smith of the firm of Smith & Mellette, attorneys for

applicants.

Q How old did you say you are, Berry? A. 46.
Q Were you a slave? A. Yes sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother.
Q Did you go out of the Nation , or were you taken out of the Cherokee Nation during the war? A. Yes sir.
Q By whom were you taken out? A. My master.
Q When did you return? A I come back when she did.
Q When who did? A. My sister Eliza.
Q When your sister Eliza Gains,returned? A. Yes sir.
Q Have you a farm? A. Yes sir.
Q Where is it? A. It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kern-Clifton roll? A Yes sir.

By W.W. Hastings, Cherokee representative-

Q Where were you married? A. I was married about three miles and a hlaf from Bluejacket at the lower end of Timbered Hill.
Q You had heard the statement of your sister, Eliza and sister, Jane; did you go,the rounds with them? A. Yes sir.
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A. I worked up there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A. Yes sir.
Q Did you make your home with your sister before your marriage? A. I worked out a good deal of the time, worked at Vinita,some, I lived with my mother.
Q What was your mothers name? A. Mary Stover.
Q Did she come back from Texas with you? A. Yes sir.
Q With your two sisters too? A. Yes sir.
Q Your mother was along too? A. Yes sir.
Q Is your mother living? A. No sir.
Q Where did she die? A. She died up at Timbered Hill.
Q How long ago? A. About 13 years.
Q You made your home with her until she died? A. Yes sir.

By Mr. Smith-

Q Where was it your mother died? A. She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not? A. I don't know for sure whether she was or not.
Q How long has it been since she died? A About 13 years.

The 1880 authenticated roll of the Cherokee freedmen examined and applicant's name not found thereon.

The Kern Clifton roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows-
page 162, No. 4008, Jerry Thompson, Cooweescoowee district
page 162, No.4009. Elmer Thompson, Cooweescoowee district.
page 162, No. 4010, Lee Thompson, Cooweescoowee district.
page 162, No,4011, Morrison Thompson, Cooweescoowee district.

Com'r Needles,- Berry Thompson applies for the enrollment of himself and three children,to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880,nor the census roll of 1896. His name is found upon the Kern Clifton roll The names of his three children are also found upon said roll.

He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the counsel in this case, the record in the case of Eliza Gaine, D. #220 is referred to and made a part of the record in this case. The names of Perry Thompson and his three children as enumerated herein, will now be listed for enrollment upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

* * * * * * *

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 16th day of May, 1901.

(signed) C. R. Breckinridge,
Commissioner.

* * * * * * *

I, Chas. von Weise, upon oath state that the above is a true copy of the original.

Chas von Weise

Subscribed and sworn to before me this 22 th of July, 1901.

Commissioner.

File with case of Berry Nash, C.F.-D.#229.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~xxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in ghe Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live frhm Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, i n't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nat on
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mollette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Craig? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Where ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Q~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behald of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to September.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the w ar, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation oBject to the introduction of the statement of Eliza Gaines before the wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 228, Berry Nash.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 20th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 20 1881.

No. 112. Mary Stover,
Eliza Stover,
Jane Stover,
Berry Stover,
Lydia Stover,
Angelina Stover,
Mary Stover,
vs
Cherokee Nation.

PETITION FOR CITIZENSHIP.

J. M. Bryan,
Atty for Claimant.

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 20th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has hat been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1902.

B C Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Berry Nash, D 880;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in whihh to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR?
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 327
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 316
Harriett Tucker et al	Cherokee Freedmen D 397
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Eliza Groves for herself and minor children, Martha, Dora, Peter W., Lorretha and Ennis Groves; by Perry Nash for himself; by Edward Nash for himself; by Curris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lettie Martin; by Nellie Brown for herself and minor children, Louis, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Lena Lemmerson, Henrietta Bean, George Tucker and Hugh Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lena Carter for herself; by Allie McIlroy, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ella Gaines, Jane Webb, Perry [illegible], Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Hunter is the daughter of Rose Hanks, sister of Ella Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rose Hanks was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin is full blood Indian as shown by the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein were born in the Cherokee Nation since 1866, or from date of birth were born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were resident in said Cherokee Nation on June 28, 1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in October, 1901, and that the applicant, Eliza Groves, died in October, 1901; and that the applicant, Ennis Groves, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Lulie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Melinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Heather Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Neurotha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Nunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah . Tucker, Lydia Carter, Allie McIlroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 5-1908.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. Berry Nash,
Bluejacket, I.T.
CherokeeF-D-229
Register.

COPY.

Cherokee N. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 8, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nellie, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Rona, Peter W. and Leuretha Greene, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Annie Greene as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. 1-6

COPY.

Cherokee Freedmen
D 220, et al.,

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rozie Jones, McKinley Jones, Centralia Jones, John T. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Minnie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Harry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rozie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDOX,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-26.

COPY.

Cherokee Freedmen
D-229.

Muskogee, Indian Territory, September 30, 1903.

Berry Nash,

Bluejacket, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register.

Enc. D-81

Chairman.

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah H. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa M. Sango, who was a sister of Eliza Gaines. Rosa M. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Dennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-229.

Muskogee, Indian Territory, April 18, 1904.

Berry Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-230 et al.

Muskogee, Indian Territory, April 16, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 3, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Henry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Greene, Mary and Edward Nash, Carrie and Delilah Harris, Alla Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah E. Tucker, Glen Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Greene as Cherokee freedman, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley, and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Melinda, Lottie, Lizzie, Nolie, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233---------- Mary Harris, et al.,
F-1234---------- Joseph Curry,
F-1235---------- Ostella Martin, et al.,
F-1236---------- Harrison Curry,
F-1281---------- Eliza Gaines,
F-1282---------- Jane Webb,
F-1283---------- Mary Mabry, et al.,
F-1284---------- Berry Thompson, et al.,
F-1285---------- Julia Nash,
F-1286---------- Georgia Jones, et al.,
F-1287---------- John H. Nash, et al.,
F-1288---------- Malinda Johnson, et al.,
F-1289---------- Martha Greems, et al.,
F-1290---------- Berry Nash,
F-1291---------- Edward Nash,
F-1292---------- Carrie Harris, et al.,
F-1293---------- Ella Humes,
F-1295---------- Michael Martin,
F-1296---------- George Martin, et al.,
F-1297---------- Joshua Martin,
F-1298---------- Edward Brown, et al.,
F-1299---------- Israel Martin, et al.,
F-1300---------- Nellie Brown, et al.,
F-1301---------- Harriett Tucker, et al.,
F-1302---------- Lydia Carter,
F-1303---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--369 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John M. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Greene,
3564	Dona Greene,
3565	Peter W. Greene,
3566	Lauretha Greene,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callie[S] West,
4079	Henry West,
4080	Callie[S] West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West

Roll No.	Name.
4088 ----------	Martha West,
4089 ----------	Vinita West.

Respectfully,

L.S.

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed september 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in r reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee Commission on citizenship, on September 26, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905 (Land 38933-1905), and affirmed by the Department August 5, 1905 (I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee freedmen

approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Mart Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shows that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can e identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the Attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opendd, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106435-1906), the Indian Office transmitted your report dated November 26, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of these applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1290

COPY

Muskogee, Indian Territory, March 7, 1907.

Berry Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

Commissioner.

JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby,

Commissioner.

Encl.H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby,

Commissioner.

Encl. H-20
JMH

D.H.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T. 47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John W. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedmen 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

WWP

Commissioner.

Cherokee F 1290.

Muskogee, Indian Territory, June 8, 1907.

Berry Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-10.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1291

See Cher Fr 1281-1284

Cher Fr 1291

Department of the Interio ,
Commission to the Five Ci ilized Tribes,
Vinita, I. T. May 9th 190..

In the matter of the application of Edward Nash for enrollment as a Cherokee Freedman; he ebeing sworn by Commissioner T. B. Needles, testified as follows:

W. W. Hastings of counsel for Cherokee Nation
Edgar Smith of Counself for applicant:

(Examination by Commissioner T. B. Needles)

Q What is your name? A. Edward Nash
Q What is your age? A. 21.
Q What is your post office address? A. Blue Jacket.
Q In what district do you live in? A. Cooweescoowee.
Q Do you apply for enrollment as a Cherokee Freedman? A. Yes sir
Q Who do you want to have enrolled besides yourself? A. Just myself.
Q Are you married? A. Yes sir
Q Is your wife a citizen? A. No sir.
Q Have you any children?mA. No sir.
Q Is your name on the roll of 1880? A. Yes sir.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant not found hereon

The 1896 census roll of the Cherokee Nation examined and the name of the applicant ~~identifie~~ not identified thereon.

Q Did you draw your Strip money? A. Yes sir.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant identified thereon as follows:
Page 161, No. 3970 Eddie Nash, Cooweescoowee district.

Q What is your fathers name? A. Henry Nash
Q What is your mothers name? A. Eliza Nash~~Sea~~
Q Is she living? A. Yes sir.

By Edgar smith , of counsel for applicant:

Q Is your mother Eliza Nash sometimes called Eliza Gaines? A. Yes sir.
Q Is she the same person who testified in her own behalf some little while ago? A. Yes sir.
Q What relation are you to Berry Thompson? A. He is my uncle.
Q What kin are you to Jane Webb? A She is my aunt.
Q How long have you lived in he Cherokee Nation? A. All my life.
Q Is your name on the Kerns-Clifton roll? A. Yes sir.

By the Commission:

Q Are you living now in the Cherokee Nation? A. Yes sir.

Com'r Needles-Edward Nash applies for the enrollment of himself as a Cherokee Freedman; his name cannot be found on the authenticated roll of 1880, but is found on what is known as the Kerns Clifton pay roll, and he is duly identified thereby according to the page and number of he roll as indicated in he testimony, and he makes satisfactory proof as to residence. By agreement of the counsel for the Cherokee Nation and for the applicant the testimony taken in the matter of the ~~same~~ application for the enrollment of Eliza Gaines on D. Card No. 220, and that of Berry Thompson on D. Card No. 223 is hereby referred to

and will be made a part of the record in this case. The name of the said Edward Nash will be placed on a doubtful card awaiting the further consideration of the Commission. When the Commission a rives at a decision he will be notified by mail at his post office address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes thereon.

Chas von Weise

Subscribed and sworn to before me this the 19th of May, 1901 at Vinita, I. T.

Commissioner.

B
9,920

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
[illegible] 9 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Muskogee I. T.

District 600

1. Name Edward Nash Age 21

Owner's name Citizenship

Year Kl Page 161 No. 3970 District 600

Parents:

Father Henry Nash - dead Citizenship

Mother Eliza Gaines - living Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by No. 1 Stenographer Chas. von Weise

On K. C. roll as Eddie Nash.

X Ref to Dawson

Mellette and Smith attys for applicant

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Terr tory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Edward Nash, for the enrollment of himself as a Freedman of the Cherokee Nation, one copy of the original testimony of May 9th, 1901.

Mellette Smith
Attorney for Applicant.

Cherokee F. #D230.

To be filed with case of Edward Nash, C. F. D. 230.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinia, I. T. May 9th 1901.

In the matter lf theapplication of Berry Thompson for the enrollment of himself and three children as Cherokee freedmen; siad Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Berry Thompson.
Q How old areyou, Mr. Thompson? A. About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A, Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A Yes sir.
Q Who do you desire to enroll besides yourself? A I got three children
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A. 14.
Q The next one? A Leo.
Q How old is Leo? A. 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A. Yes sir.
Q What is your wife.s name? A. Bell Thompson.
Q Is she a citizen? A. No sir.
Q Is she the mother of these children? A Yes sir.
Q What was her father's name? A. Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe? A
A No sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? A (No response)
Q Kinda half way? A. Yes sir, just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation? A. Yes sir
Q Is your name on the roll of 1880? A. No sir.
Q Is it on the Kern Clifton roll? A Yes sir.
Q Were you married to Bell Thompson? A Yessir.
Q Have you any certificate of marriage?A. No sir.
Q Have you any proof of marriage? A. Yes sir.
Q Whom can you prove your marriage by? A. Her sisters.
Q Are they here? A. Yes sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. John Nash.
Q What is your age? A. 35.
Q What is your post office address? A. Bluejacket.
Q Do you know Berry Thompson? A Yes sir.
Q Do you know his wife, Bell? A. Yes sir.
Q Do you know whether they were married or not? A. Yes sir,they was married.
Q How do you know? A. Old man Bluejacket married them.
Q Did you see him marry them? A. Yes sir.
Q Was Bluejacket a minister? A Yes sir, uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A. Yes sir.
Q Is Bell Thompson living now, his wife? A. Yes sir.
Q Did they have any children? A. Yes three.
Q Born to them while they were living together as man and wife? A. Yes sir.
Q What is the names of them do you recollect? A. Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON,the applicant, re-called testified as follows: Examined by Mr. Smith of the firm of Smith & Mellette,attorneys for

applicants:

Q How old did you say you are, Berry? A. 46.
Q Were you a slave? A. Yes sir.
Q Who was your owner? A. John Stover.
Q Are you related to Eliza Nash or Eliza Gaines? A I am her brother
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A. Yes sir.
Q By whom were you taken out? A. My master.
Q When did you return? A. I come back when she did, '66
Q When who did? A. My sister, Eliza.
Q When your sister Eliza Gaines returned? A Yes sor
Q Have you a farm? A. Yes sir.
Q Where is it? A. It is three miles west of Bluejacket.
Q How long have you had it? A. About 15 years.
Q You say you are on the Kern Clifton roll? A Yes sir.

By W. W. Hastings, Cherokee representative.

Q Where were you married? A. I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You had heard the statement of your sister, Eliza and sister Jane; did you go the rounds with them? A Yes sir.
Q Did you ever live in Kansas? A. I worked up there.
Q Where? A. I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? About twenty miles.
Q How long did you work up there? A. I worked up there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A. Yes sir.
Q Did you make your home with your sister before your marriage?
A I worked out a good deal of the time, worked at Vinita,some, I lived with my mother.
Q What was your mother's name? A. May Stover.
Q Did she come back from Texas with you? A. Yes sir.
Q With your two sisters too? A. Yes sir.
Q Your mother was along too? A Yes sir.
Q Is your mother alive? A. No sir.
Q Where did she die? A. She died at Timbered Hill.
Q About how long ago? A. About 13 years a
Q You made your home with her until she died? A. Yes sir.

By Mr. Smith-

Q Where was it your mother died? A. She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A. Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not? A. I dont know for sure whether she was or not.
Q How long has it been since she died? A. About 15 years.

The 1880 authenticated roll of Cherokee freedmen examined and applicant's name not found thereon.

The Kern Clifton roll of freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:
page 162,#4008,Jerry Thompson, Cooweescoowee district.
page 162,#4009,Elmer Thompson, Cooweescoowee district.
Page 162,#4010,Lee Thompson, Cooweescoowee district.
page 162,#4011,Morrison Thompson, Cooweescoowee district.

Com'r Needles,- Berry Thompson applies for the enrollment of himself and three children,to-wit:Elmer,Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kern Clifton pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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roll and makes satisfactory proof as to residence. By agreement of the Counsel in this case, the record in the case of Eliza Gaines, D. 2888 is referred to and made a part of the record in this case. The names of Berry Thompson and his three children, as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce and further evidence in his case, the same will be received.

* * * *

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he ~~reported in full~~ correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

(signed) C. R. Breckinridge,

Commissioner.

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I, Chas. von Weise, upon oath state that the above is a true copy of the original.

Chas von Weise

Subscribed and sworn to beforeme this the 23rd of July, 1901.

Commissioner.

To be filed in the case of Edward Nash, C. F. D. 230.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9th 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Eliza Gaines
Q How old are you? A. I dont know exactly how old.
Q How, about how old? A. I got it you can see it (60)
Q What is your post office address? A. Bluejacket.
QIn what district do you live? A. Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Have you ever applied to be enrolled as a freedman of any other tribe or nation? A. No sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee freedman? A Yes sir.
Q Is your name on the roll of 1880? A. I dont know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there. (referring to paper)
Q Children are all grown? A Yes sir.

The 1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A. Yes sir.

The Kern Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee district.

By Mr. Smith- of the firm of Smith & Mellette, Attorneys for applicant:

Q Were you a slave? A. Yes sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No sir, my Mistres was.
Q What was her name? A. Charlotte Stover
Q Where were you during the war? A. With my Master.
Q Did you go out of the Nation? A Yes sir.
Q When did you get back? A. '66
Q Do you remember what time in '66? A I come back in the fall of '66 near Christmas.
Q Where did you come to, what part of the Cherokee Nation? A. I come to Gibson.
Q Where do you live now? A. I live at Timbered Hill, now.
Q Have you a place there? A. Yes sir.
Q Farm? A. Yes sir.
Q Are you on the Kern Clifton roll? A I guess I am on it, you will have to look and see.

By W. W. Hastings, Cherokee representative-

Q Who did you come back to the Cherokee Nation with? A. I come back with John Stover.
Q He brought you back? A. Yes sir, brought us to he Chickasaw Nation
Q Did he die in the Chickasaw Nation? A. Yes sir.
Q He didn't come back here after the war? A No sir, he died over there but we come back.
Q After he died then you come up to the Cherokee Nation? A Yes sir I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A. There was not nobody but my and mye sister, we hired a man to bring us.

Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.
Q You hired a wogon did you? A. Yes sir.
Q Do you remember the man's name you hired? A. Mr. Brown, he was her husband
Q How long did you stay at Fort Gibson? A. We staid there about, we come ~~there~~ in the fall before Christmas, staid there until I got able to travel again.
Q About how long? A. I guess it was about nearly, over six months, a year; we staid there and drawed rations.
Q Whom did you stay with at Gibson? A. We was in a tent.
Q Just you two and her husband? A. Yes sir and the children
Q What children did you had at that time? A. I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A. Yes sir
Q Who did you work for at Fort Gibson? A. I washed for the soldiers
Q And where did you go from Fort Gibson? A I staid there about a year and come up about Mr. Bell's
Q Mr. HoolytBell? A Yes sir.
Q Where was he living at that time? A. I cant tell you, but it was somewheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Holley Bell? A Yes sir.
Q How long did you stay with Hooley Bell? A. I staid until along in the fall.
Q You staid there from the summer until the fall? A. Yes sir.
Q About six or eight months? A. Yes sir.
Q And that must have been in the fall of 1867 when you staid up at Hooley Bell's? A I dont know.
Q Now, where did you go? A. I went to Chetopa and staid there.
Q Chetopa Kansas? A Yes sir, right across the line.
Q You didn't go into the state of Kansas? A No sir.
Q You only went up near Chetopa on the Cherokee side? A. Yes sir, on what they call.
Q Now, when did you work for up there? A. We ~~worked~~ was working for ourselfes, a man hired us to go out and work on his farm,it was a man ~~xxxx

Q What was that family? A., John Shafer.
Q Did he live in the Cherokee Nation? A Yes sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles
Q Down on the Cherokee side? A. Yes sir.
Q South of Chetopa? A Yes sir.
Q Were you living there when the railroad came there? A No sir, wasn't no railroad, living there long before the railroad was built.
Q You were living there when the railroad was built? A. Yes sir, there wasn't no houses when the railroad come through.
Q You were living at Larkins when the railroad come there? A Yes sir
Q Now, Aunty, how far from the railroad track, the M. K. & T., were you living? A. I dont know, we could not hear the train.
Q On the south of the track? A. That was on this side of the track, over in Cooweescoowee.

By Mr. Smith-

Q Who are your children? A. John Henry.
Q John Henry what? A. John Henry Nash; Julia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A. Three is dead.
Q How many are alive now that you name? A (No response)
Q Youd don't mean that any of those whose names you give are dead? A No sir.
Q Do they go by this name name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls ? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Darrie Harrison.
Q Are they here? A. There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of applicant, sworn and examined by Commissioner, T. B. Needles, testified as follows-

QWhat is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A. 78.
Q What is your post office address? A. Hudson.

By Mr. Smith-

Q Do you know Eliza Nash or Eliza Gaines? A Yes sir.
Q How long have you known her? A. Well, I have known her somewheres about in '66.
Q Where did you know her? A. When I first known her she was at, my first knowing here, I seen her at Fort Gibson.
Q Are you a freedman? A Yes sir.
Q Are you on the 1880 roll, or not? A. Yes sir.
Q Where were you during the war, did you go out of the Cherokee Nation? A No sir; Yes sir; I went out of the Cherokee Nation but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes sir.
Q Do you remember when you got back to the Cherokee Nation? A. Yes sir
Q When was it? A. I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you become acquainted with or see Eliza Nash or Eliza Gaines? A Wells I come back in, along, in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back? A Along in the summer, spring like.
Q On 1865? A Yes sir.

Q And the following winter? A. No, it was the year we called there, that winter and the next winter, come ~~the~~ in the same winter, that is right; the same winter.
Q Well, which was it, the following winter after you come back in the summer? A. Yes sir.
Q Do you know her children; know what their names are all of them, or not? A. No sir; I dont know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

By W. W. Hastings-

Q Did you see her there then the one time, Mr Chambers? A No, sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after tou come back in the spring or summer? A Yes sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A. Yes sir, I am positive I saw her there.
Q Are you positive about the year you saw her? A It was the same winter after I come there; you see I staid there all that summer down there to Fort Smith and along in the fall I come up here.
Q Andthat is the fall you saw her? A Yes sir, that winter I seen her.
Q You know that? A Yes sir, I know that to be fact.
Q You come here you say in the spring or summer on 1865? A Yes sir.
Q And say it was the next winter you saw her? A. Yes sir, I said that summer there at Fort Smith in the bottom, understand me right; I staid there that summer in the bottom and hat winter I come up to see my old folks who raised me; well that fall I staid there all fall and that fall I went down to Gibson, riding about as usual and staid around a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A. Yes sir.
Q You remember seeing her? A. Yes sir.
Q Well when did you nest see her? A I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A. I cant call the mans name now; but anyhow it was the store George Snaders ~~worked in~~ was working in; I guess you know don't you, don't you recall.
Q I was not there? A. There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You dont know where she had been ~~anywhere~~ in the mean time? A No sir; but I dont think she had been anywhere but, I heard of her living up by William Tucker's
Q You never did see her up there? A. No sir.
Q Have you ever been arrested? A. Yes sir.
Q What for? A. For several things.
Q How many times? A. Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What court? A. Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A. Never done anything with me.
Q Did they try you? A. Yes sir, never done anything.
Q What did they do with you in the Cherokee Court? A. Nothing, turned me aloose and let me go home.
Q Never was convicted? A No sir.
Q You dont remember seeing anybody but this woman in 1866? A Oh I seen lots others.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. James Alberty.
Q What is your post office address? A. Chouteau.
Q How old are you James? A I am near 70 or older; I dont know.
Q Are you a citizen of the Cherokee Nation? A Yes sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No sir.

By Mr. Smith-

Q Do you know Eliza Gaines? A. Yes sir.
Q Sometimes called Nash? A I know her.
Q How long have you known her? A. I dont know how long, I known her when she was with her old Master, I dont know how long that has been
Q Who was that? A. Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66 before the Treaty was made.
Q Did you know where Eliza Nash was at that time? A. (No response)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A. At Gibson
Q When? In '66.
Q Can you state at what time it was? A. In the fall.
Q Did you know any of her family, and of her children? A No sir, I could not tell anything about them.
Q Did you know her sister? A. Yes sir.
Q What was her sister's name? A Lydia was one and Jane she was one and if I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A. Yes sir.
Q Who did you see? A. Lydia thatI noticed.
Q That you remember? A. Yes sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No sir, I dont know.

By W. W. Hastings-

Q Whom did you belong to when the war broke out? A. John Alberty.
Q John Alberty sold you out of here before the war? A No sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war? A Yes sir, I never belonged to anyone else that I know of.
Q He never sold youmout? A. No sir.
Q Where were you living when the war come up? A. Right at Pryor creek, right at the toll bridge.
Q Where was this woman living when the war come up? A. At Stovers
Q How far was that from where you were living? A. I trained horses right there by Wilson.s
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A. Yes sir.
Q What were you doing at Fort Gibson when you saw her there? A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A. She was there washing, I dont know where she was living.
Q How do you happen to remember seeing her? A. I stopped there where she was and talked with her.
Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A. On Cabin creek.
Q Where is that? A. I dont know which way it is from here.
Q How far from Vinita.

A Good ways.
Q Near whose place? A Bill Tucker's
Q On Cabbin Creek? A. Yes sir.
Q When was that you saw her there? A. I dont know, it may have been a year or maybe more.
Q She was living up there then? A. Yes sir, in the house not far from Mr. Tucker's
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A. I dont know.
Q She moved from where she lived on Cabin creek to where she lives now? A Yes sir.
Q West of Bluejacket? A. Yes sir, west of Bluejacket.
Q Jim, were you ever tried for anything by the Courts? A No sir,
Q Never was arrested? A No sir, not by Courts, I was not.
Q By Marshals? A No sir, I used to be a Marshal myself, I never was arrested for any crime or any kind, never was.

Com'r Needles,- Eliza Gaines applies for the enrollment of herself as a Cherokee freedman. Her name is not found upon the authenticated roll of 1880, or anu rolls now in the possession of this Commission except the Kern Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the futher consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

(signed) C. R. Breckinridge

Commissioner

* ** * ** * * * * * * *

I, Chas. von Weise, upon my oath state ~~that the~~ foregoing is a true copy of the original.

Subscribed and sworn to before me this 23rd of July, 1901.

Commissioner.

File with case of Edward Nash, C.F.-D.#230.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~improve~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker? A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place? A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell Creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 years old.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory practically and lived here the greater portion of your life? A Yes, sir, that was in the Cherokee Nation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir.
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '62.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1862?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
Q How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to September.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn't nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there; in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 229, Edward Nash.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1909.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 28th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,	
	Eliza Stover,	
	Jane Stover,	PETITION FOR CITIZENSHIP.
	Berry Stover,	
	Lydia Stover,	
	Angelina Stover,	J. M. Bryan,
	Mary Stover,	Atty for Claimant.
	vs	
	Cherokee Nation.	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247; Lydia Carter et al, D-718, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mallette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1903.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B. O. Jones
Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 493, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Edward Nash, D 230;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR?
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 233
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 515
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Olli and Lucy Nash; by Malinda Johnson, for herself and minor children, Mattie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ellis Groens for herself and minor children, Martha, Dora, Peter W., Lorretha and Ennis Groens; by Henry Nash for himself; by Edward Nash for himself; by Curris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lennie, and minor children, Fannie, Louie, Laura and Nettie Martin; by Nellie Brown for herself and minor children, Louie, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Lulu Drummond, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah E. Tucker; by Lydia Carter for herself; by Allie Holiron, for herself and minor child, Ettie Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellis Gaines, Jane Webb, Henry Ellis and, Louis Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hughes and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1865.

The evidence further shows that Ella Hughes is the daughter of Rosa Mango, sister of Ellis Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rosa Mango was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19,1866.

The said Alice Martin is duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1896, or from date of birth where born since the year 1896, up to and including the date of the application herein, except on occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28,1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1901, and that the applicant, Ellis Groens, died in October, 1901, and that the applicant, Ennis Groens, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Labry, Frank Labry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Melinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Jones, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Nonie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Innis Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 3-1908.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Edward Nash,
Bluejacket, I.T.
CherokeeF-D-230
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F. D-230
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Elina Gaines, Jane Webb, Mary and Frank Embry, Merry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Melinda, Lottie, Lizzie, Ella, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Lona, Peter W. and Lauretha Greene, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Mollie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Dean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Groom as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby.

Chairman.

Enc. D-6

COPY.

Cherokee Freedmen
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Minnie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. ADDOLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith Nt. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

COPY.

Cherokee Freedmen
D-230.

Muskogee, Indian Territory, September 30, 1903.

Edward Nash,

Bluejacket, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.
Chairman.

Register.
Enc. D-82

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Mumes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Mumes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Bameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Mellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM

(Signed) A. C. Tonner.

5 enclosures.

Acting Commissioner.

D C 10862-1904.
ITD 833-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-230.

Muskogee, Indian Territory, April 18, 1904.

Edward Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Henry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Mary and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Glen Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley, and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greems, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
D-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lettie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Numes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callie West,
3877	Callie S West,
4079	Henry West,
4080	Callie S West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

L.S.

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in r reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citi zens of the Cherokee Nation, in accordance with the Department's ruling in the Harry still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee By blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905(Land 38933-1905), and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Departmen t, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M B

Commissioner

COPY

Land
106466-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 23, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee freedmen

approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Mart Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shows that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose name appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as a witness in Cherokee freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 10643 -1906), the Indian Office transmitted your report dated November 26, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Caines et al.

You recommended that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1291

COPY

Muskogee, Indian Territory, March 7, 1907.

Edward Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

JMH

Commissioner.

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patton,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl.H-21
JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B.

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedmen 1305

Respectfully,

WMP

Commissioner.

D.S.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T. 47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1291

Muskogee, Indian Territory, June 8, 1907.

Edward Nash,

Bluejacket, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-11.
S.W.

Acting Commissioner.

Cherokee
P 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1292

See Cher Fr 1281-1284

Cher Fr 1292

W. W. Hastings for the Cherokee Nation:
Mallette & Smith for applicant:

Department of the Interior,
Commission to the Five Civilized Tribes
Vinita, I. T. May, 8th 1901.

In the matter of the application of Carrie Harris fir enrollment as a Cherokee Freedman, she being sworn by Commissioner T. B. Needles, testified as follows:

(By Commissioner T. B. Needles,)

Q What is your name? A. Carrie Nash.
Q How old are you? A. About 18.
Q What is your post office address? A. Blue Jacket.
Q What district do you live in? A. Delaware.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you desire to have enrolled besides yourself? A. Just myself.
Q Are you married? A. Yes sir.
Q What is your husbands name? A. Aleck Harris.
Q Is he a citizen? A. No sir.
Q Have you any children? A. No sir.
Q Your name then is Harris and not Nash? A. Well my maiden name is Nash.
Q What is your fathers name? A. John Henry Nash.
Q What is your mothers name? A. Eliza Gaines.
Q Is she living? A. Yes sir.
Q Have you ever applied to be enrolled as a Freedman of any oher tribe?
A No sir.
Q Is your name on the roll of 1880? A. No sir.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant not found thereon

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

The Kerns Clifton roll of the Cherokee Nation examined and the name of the applicant not found thereon as follows:
Page 161 No. 3973, Carrie Nach Cooweescoowee district:

By Edgar Smith, attorney for the applicant:

Q Who is your mother? A. Eliza Gaines.
Q Is she sometimes called Nash? A. Yes sir.
Q Is she the same person who testified in her own behalf a short time ago?
A Yes sir.
Q Are you acquainted with Berry Thompson? A. Yes sir.
Q What kin is he to you? A. My uncle.
Q Are you any relation to Jane Webb? A. Yes sir she is my aunt.
Q Where do you live? A. In BlueJacket.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Is your name on the Kerns Clifton roll? A. Yes sir.

Q By W. W. Hastings.

Q Where were you married? A. In Blue Jacket.

By Com'r Needles,-Carrie Harris applies for the enrollment of herself as a Cherokee Freedman; her name cannotbe found on the authenticated roll of 1880, but her name is found on the Kerns Clifton roll as Carrie Nash, that having beenher maiden name; she avers that she has since married one Aleck Harris. She is duly identified according to the page and number of the roll as indicated in the testimony and makes satisfactory proof as to residence. By agreement of counsel for the Cherokee Nation and for the applicant, the testimony heretofore taken in the matter of the application of Eliza Gaines on D Card No. 220, and that of Berry Thompson on D. Card No. 223 is referred to and will bemade a part of the record in this case. The said Carrie Harris will be placed on a doubtful card for th further consideration of the

Carrie Harris 2.

Commission , and when the Commission arrives at a decision in her case she will be notified by mail at her present post office address.

+ + + + + + + + + + + + + + + + + + +

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes herein.

Chas von Weise

Subscribed and sworn to before me this the 10th of May , 1901 at Vinita, I .T.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
9 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Muskogee I.T.

District

1. Name Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

11. Name of wife Carrie ~~Nash~~ Harris Age 16

Owner's name Citizenship

Year K. C. Page 161 No. 3973 District Cos

Parents:

Father John H. Nash — dead Citizenship

Mother Eliza Gaines — living Citizenship

Names of Children:

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by No. 1 Stenographer Chas. von Weise

Can K. C. roll as Carrie Nash

X his T

Mellette and Smith, attys for applicant.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Carrie Harris, for the enrollment of herself as a Freedwoman of the Cherokee Nation, one copy of the original testimony of May 9th, 1901.

Mellette Smith

Attorney for Applicant.

Cherokee F. #D231.

7A231

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on.....

by delivering a true copy thereof on the .....day of.....A. D. 1901.

Given under my hand this.....

day.....A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the .....day of SEP 18 1901, 1901.

William Vollmer

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the.....day of A.D.1901

Subscribed and sworn to before me this.....day of .....A.D.1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 13 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Carrie Harris for enrollment as a Cherokee Freedman:

Case No. F. D. 231

To Carrie Harris or Mollette Smith her atty.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct 12th.

at 8 o'clock A. M.

A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12th day of Sept., 1901.

L. B. Bell

Attorneys for the Cherokee Nation.

File with case of Carrie Harris, C.F.-D.#231.

Supl.C.F.-D.#220.

_R_

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 1. th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE bei ng duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near w here Blu jacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, si r, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
Q When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there i n '82.
Q Well, were you over the country where they located there, where their ~~xxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Ti mbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquaint ed with Eliza Gai nes? A Well, sir, I can't state as to the time I got a quaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquaint ed with them when they first came up there about Bluejacket or not, do you? A I could not state positi ve when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the wor ld about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell Creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Well, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q When ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~xxxxx~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to September.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negr s there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up th re; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the w ar, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in th. Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/
Subscribed and sworn to before me this September 11th, 1389.
John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1389, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also givin the names of her children, I want to introduce a certified copy from the secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-230.

To be filed with C. F. D. 230, Carrie Harris et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Caines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-230.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the [illegible] day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,	
	Eliza Stover,	
	Jane Stover,	PETITION FOR CITIZENSHIP.
	Berry Stover,	
	Lydia Stover,	
	Angelina Stover,	J. M. Bryan,
	Mary Stover,	Atty for Claimant.
	vs	
	Cherokee Nation.	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. E. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of them are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the following following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-718, and in the case of Eliza Gaines, the same being the case at bar, D-820. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1902.

B. A. Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Carrie Harris, D 231;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR?
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 307
Mellie Brown et al	Cherokee Freedmen D 315
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Groome for herself and minor children, Martha, Dora, Peter W., Lenrotha and Ennis Groome; by Henry Nash for himself; by Howard Nash for himself; by Carrie Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Juno Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Linnie, and minor children, Lannie, Louis, Laura and Lettie Martin; by Nellie Brown for herself and minor children, Louis, Josee, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, John Brown, Henrietta Bean, George Tucker and Hope Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lydia Carter for herself; by Allie Holiday, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ella Grimes, Jane Webb, Henry Thomas, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Hunter and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Hunter is the daughter of Rose Mango, sister of Ella Grimes, one of said principal applicants, and claims right to enrollment through her; that the said Rose Mango was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19,1866.

The said Alice Martin was duly identified in the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28,1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1900; and that the applicant, Ella Groome, died in October, 1901; and that the applicant, Ennis Groome, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Caines, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Dixie Jones, McKinley Jones, Centralia Jones, John W. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hines, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Rachel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Dixie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Marriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah E. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Dennis Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 3-1904.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

RECEIVED
JUN 23 1919
29:36

WASHINGTON, JUN 19 1919, 191

I, E. B. Meritt, Assistant Commissioner of Indian Affairs, do hereby certify that the paper hereto attached is true copy of the original as the same appears on file in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

E B Meritt

Assistant Commissioner.

6—1931

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Carrie Harris,
Bluejacket, I.T.
Cherokee F-D-231
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee V. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie M., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nellie, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Rona, Peter W. and Louretha Greene, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clara Martin, Emma and Henrietta Nash, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Labry, Frank Labry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John W. Nash, Allie Nash, Jesse M. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDOLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

COPY.

Cherokee Freedmen
D-231.

Muskogee, Indian Territory, September 30, 1903

Carrie Harris,

Bluejacket, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for the enrollment of yourself and minor child, Delilah Harris, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Chairman.

Register.
Enc. D-85

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Lellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah ... Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa M. Sango, who was a sister of Eliza Gaines. Rosa M. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

(Signed) A. C. Tonner.

Acting Commissioner.

GAW/LM

5 enclosures.

D C 10862-1904.
ITD 833-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-231.

Muskogee, Indian Territory, April 18, 1904.

Carrie Harris,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, the application for the enrollment of yourself and minor child, Delilah Harris, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Bery and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Greene as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Perry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley, and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Melinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greems, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
D-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie S West,
F-1417 ---------- Callie G West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Merrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Nunes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
34607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3860	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callie West,
4079	Henry West,
4080	Callie West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

L.S.

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in r reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citi zens of the Cherokee Nation, in accordance with the Department's ruling in the Harry still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee By blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the wnter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905(Land 38933-1905), and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Departmen t, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M B

Commissioner

COPY.

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

Freedmen approved by the department september 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on september 24, 1901. Subsequent proceedings, however, with reference to his dea death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to september 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on september 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll or citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the civil war. It appears that James Alberty has appeared as a witness in Cherokee freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the Attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opendd, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

--Copy--

JFJr

DEPARTMENT OF THE INTERIOR,

LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1292

COPY

Muskogee, Indian Territory, March 7, 1907.

Carrie Harris,

Bluejacket, Indian Territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and child, among others, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

Commissioner.

JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl.H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

WWP

Commissioner.

D.C.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T. OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1292.

Muskogee, Indian Territory, June 8, 1907.

Carrie Harris,

Bluejacket, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and child as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-12.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Elima Haines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1293

Cher Fr 1293

Department of the Interior,
Commission to he Five Civilized Tribes,
Vinita, I. T. May, 9th 1901.

In the matter of the application of Ella Humes for enrollment as a Cherokee Freedman; she being sworn by Commissioner T. B. Needles, testified as follows:

W. W. Hastings of counsel for Cherokee Nation.
Edgar Smith of counsel for Applicant.

Examined by Com'r T B. Needles:

Q What is your name? A. Ella Humes.
Q How old are you? A. A 28.
Q Whatis your post office address? A. Vinita.
Q What district do you live in? A. Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you desire to have enrolled besides yourself? A. Just myself.
Q Are you married? A. Yes sir.
Q What is your husbands name? A. Charles Humes.
Is he a citizen? A. No sir.
Q Is your name on the roll of 1880? A. I think not.

The 1880 authenticated roll of he Cherokee Nation examined and the name of he applicant not found thereon.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A (No response)
Q Did you draw your strip money? A. Yes sir.

Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant identified thereon as follows:
Page 162, No. 4012, Ella Humes, Cooweescoowee district.

By Edgar Smith, attorney for applicant:

Q Who is your moher? A. Rosa Mango.
Q Are you related to Eliza Gaines? A. Yes sir.
Q What relation is she to you? A. My aunt.
Q What relation was shemto your mother? A. She was my mothers sister.
Q Your mother and Eliza Gaines were sisters? A. Yes sir.
Q And your mothers name was what? A. Rosa Mango.
Q Where do you live now? A Vinita.
Q How long have you lived in the Cherokee Nation? A. I have been here off and on all my life.

By W. W. Hastings, Cherokee representative:

Q Where were you born? A. I dont know where I was born. They say hat I was born in Fort Gibson.
Q Is that what your parents taught you? A. That is whatmy aunt taught me.
Q Where is your mother? A. My mother is dead.
Q Where did your mother die? A. I wasn't old enough to remember.
Q Where did your aunts teach you that your mother died? A. In he Cherokee Nation.
Q What part? A. I dont know.
Q Do you remember your mother? A. No sir.
Q Do you remember your father? A. Yes sir.
Q What was your fathers nam ? A Sandy Mango.
Q Is he living? A. No sir.
Q When did he die? A. In 18 3.
Q Where? A. Timber Hill.
Q When you can first rememb , where did you live? A. On Cabin Creek with

my grandmother.
Q What was her name? A. Mary Stover or Lindsay.
Q You are married to a man named Humes now? A. Yes sir.
Q He lived in Kansas? A. Yes sir.
Q He lived in Kansas when you married him didn't he? A. Yes sir
Q You married him in Kansas? A.Yes sir.
Q What place in Kansas? A. Chetopa.
Q Where did you live with him after you married him? A. Here and in Muskogee.
Q What points in Kansas did you live with him? A. Chetopa and Galena
Q How long did you live in Galena? A A year.
Q What business did your husband follow while he was living in Kansas?
A Any thing that he could get to do
Q You never lived in any other place in Kansas than these two? A. No sir
Q How long did you live in Chetopa? A. I have been in Chetopa and the Nation all my life.
Q How long have you been in the Cherokee Nation since the last ime you left Kansas? A. Seven years.
Q Now immediately before hat how long had you lived in Kansas? A. I dont know.
Q About how many years? A. I couldnt tell just exactly for I never paid any particular attention to it.
Q Do you think you lived there two or three years that time? A. May be that long and may be less and may be more, I dont know.

ELIZA GAINES, called and sworne as a witness on be part of the applicant, testified as follows before Commissioner T. B. Needles:

Q What is your name? A. Eliza Gaines.
Q What is your age? A. 61,
Q What is your post office address? A. Blue Jacket.

By Edgar Smith:

Q Do you know Ella Humes? A. Yes sir.
Q Is she related to you? A. Yes sir my sisters child.
Q Whatwas your sisters name? A. Rosa.
Q Was she a slave? A. Yes sir.
Q To whom did she belong ? A. Nancy Dameron.
QmWas she a citizen of the Cherokee Nation? A. Yes sir.
Q Do you know whether your sister was out of the Cherokee Nation during the war or not? A. No sir I dont think she was ever out.
Q You were taken out yourself? A. Yes sir, I was in Chetopa.
Q Where was your sister when you came back, if you know? A. I dont know.
Q How long after you came back before you saw your sister? A. Three months
Q Where did you see her then? A. She came up to my house.
Q Where was that? A. On the Larkins place.
Q Where was that place? A. On the line near Gabin.
Q In the Cherokee Nation? A.,Yes sir.

By W. W. Hastings:

Q Your sister Rosa staid with her mistress, Mrs. Dameron ~~xxxing~~? A. Yes sir.
Q She lived with her during the war? A. Yes sir.
Q Did Mrs. Dameron live in the Cherokee Nation during the war? A. I dont know where she was during the war.
Q She wasn't with you when you went out? A. No sir there was no white folks with us.
Q Who came up to your place on Gabin when your sister Rosa came after the war? A. No one ~~xx~~ she and her children and man.
Q Was this girl here with her? A. Yes sir, just a little child then.
Q Was that the first time you saw her after he war? A. Yes sir.
Q Did she remain up there then? A. Yes sir she she staid there with Mrs Watson

Watson, she didnt have no one to work for her and she came there and got her to work for her.
Q Was it in the spring or summer hatyour sister came t you? A. I dont remember when it was.
Q Did she die up there? A. Yes sir.
Q And this girl went up to Kansas afterwards and married? A. I dont know where she was married at.
Q Where did her father die? A. In the Nation.
Q Was he a state raised man? A. Yes sir.
Q What state? A. He was a soldier man.

By Com'r Needles,-

Ella Humes applies for he enrollment of herself as a Cherokee Freedman; her name is not found on the authenticated roll of 1880, but is found on he roll known as the Kerns-Clifton and she is duly identified thereby as he applicant mentioned in the testimony. By agreement of the counsel for the Cherokee Nation and the counsel for th applicant, the testimony taken in the matter of the application ~~of this~~ for he enrollment of Eliza Gaines on D. Card No. 220, and that of Berry Thompson on D. Card No. 223 , is hereby referred to and will be made a part of the record in this case. The name of Ella Humes will placed on a doubtful card, awaiting further consideration of the Commission. When the commission arrives at a final decision in her case, she will be notified by mail at her present post office address.

* * * * * * * * * * * * * * * * * *

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me his the 11thof May, 1901 at Vinita, I.T

Tams Bixby

Commissioner.

B. J. D. 232.

MEMORANDUM OF APPLICATION

CHEROKEE FREEDM

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
[illegible] 9 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 9, 1901

Post Office Vinita I.T.

District Coo

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

14. Name of wife Ella Hughes Age 28

Owner's name ..... Citizenship .....

Year Kad. Page 162 No. 4012 District Coo

Parents:

Father Sandy Mango — dead Citizenship .....

Mother Rosa Mango — dead, Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....
4. ..... Year ..... Page ..... No. ..... Dist. .....
5. ..... Year ..... Page ..... No. ..... Dist. .....
6. ..... Year ..... Page ..... No. ..... Dist. .....
7. ..... Year ..... Page ..... No. ..... Dist. .....
8. ..... Year ..... Page ..... No. ..... Dist. .....
9. ..... Year ..... Page ..... No. ..... Dist. .....
10. ..... Year ..... Page ..... No. ..... Dist. .....
11. ..... Year ..... Page ..... No. ..... Dist. .....
12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by NSC Stenographer Chas. von Weise

X Ref to D 3-0 Pg 2-E

Mellette and Smith attys for applicant.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Ella Humes for the enrollment of herself as a Freedwoman of the Cherokee Nation, one copy of the original testimony of May 9th, 1901.

T M Wallace

Attorney for Applicant.

Cherokee F. #D232.

To be filed in the case of Ella Hunnes C F D 23 [redacted].

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9th 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows-

Q What is your name? A. Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A. Bluejacket.
Q What district do you live in? A. Cooweescoowee
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you desire to enroll besides yourself? A. I got three children.
Q What are the names of your children? A. Oldest one is names Elmer Thompson.
Q How old is Elmer? A. 14.
Q The next one? A Leo.
Q How old is Leo? A. 13.
Q The next one? A Morrison.
Q How old is Morrison? A Ten.
Q Is that all? A. Yes sir.
Q What is your wifes name? A. Bell Thompson.
Q Is she a citizen? A. No sir.
Q Is she the mother of these children? A Yes sir.
Q What was her fathers name? A. Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe? A No sir.
Q Have you ever been recognized by the Cherokee authorities as a freedman? A (No response)
Q Kinda half way? A. Yes sir, just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes sir
Q Is your name on the roll of 1880? A No sir.
Q Is it on the Kern Clifton roll? A Yes sir.
Q Were you married to Bell Thompson? A Yes sir.
Q Have you a certificate of marriage? A. No sir.
Q Have you any proof of marriage? A. Yes sir.
Q Who can you prove your marriage by? A. Her sisters.
Q Are they here? A. Yes sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. John Nash.
Q What is your age? A. 35.
Q What is your post office address? A. Bluejacket.
Q Do you know Berry Thompson? A Yes sir.
Q Do you know his wife? Bell? A Yes sir.
Q Do you know whether they were married or not? A Yes sir, they was married.
Q How do you know? A Old man Bluejacket married them.
Q Did you see him marry them? A Yes sir.
Q Was Bluejacket a minister? A. Yes sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since, their marriage? A. Yes sir.
Q Is Bell Thompson living, now his wife? Al Yes sir.
Q Did they have any children? A. Yes three.
Q Born to them while they were living together as man and wife? A Yes sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON the applicant, recalled, testified as follows; Examination by Mr. Smith, of the firm of Smith & Mellette, attorneys for applicants:

Q How old ~~are~~ did you say you are, Berry? A 46.
Q Were you a slave? A. Yes sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother
Q Did you go out of the Nation, or were you taken out of the Cherkeee Nation during the war? A. Yes sir
Q By whom were you taken out? A. My Master.
Q When did you return? A. I came back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, returned? A. Yes sir.
Q Have you a farm? A. Yes sir.
Q Where is it? A It is three miles west of Bluejacket.
Q How long have you had it? A About 15 years.
Q You say you are on the Kern Clifton roll? A Yes sir.

By W. W. Hastings, Cherokee representative.

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You had heard the statement of your sister, Eliza and sister, Jane did you go the rounds with them? A. Yes sir.
Q Where? A. I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I worked up there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A. Yes sir.
Q Did you make your home with you sister before your marriage? A I worked out a good deal of the time, worked at Vinita, some, I lived with my mother.
Q What was your mother's name? A. May Stover.
Q Did she come back from Texas with you? A. Yes sir.
Q With your two sisters too? A Yes sir.
Q Your mother was along too? A Yes sir.
Q Is your mother alive? A. No sir.
Q Where did she die? A. She died up at Timbered Hill.
Q About how long ago? A. About 13 years.
Q You made your home with her until she died? A. Yes sir.

By Mr. Smith-

Q Where was it your mother died? A. She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not? A I dont know for sure whether she was or not.
Q How long has it been since she died? A. About 13 years.

The 1880 authenticated roll of Cherokee freedmen examined and applicant's name not found thereon.

The Kern Clifton roll of freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows-
Page 162, #4008, Jerry Thompson, Cooweescoowee district.
page 162, #4009, Elmer Thompson, Cooweescoowee district.
page 162, #4010. Lee Thompson, Cooweescoowee district.
page 162, #4011, Morrison Thompson, Cooweescoowee district.

Com'r Needles, Berry Thompson applies for the enrollment of himself and three children, towit- Elmer, Leo, and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kern Clifton pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of Counsels in this case, the recod in the case of Eliza Gaines D.#220 is referred to and made a part of the record in this case.

The names of Berry Thompson and his three children as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof

(Signed) J. O. Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

(signed) C. R. Breckinridge,
Commissioner.

* * * * * *

I, Chas. von Weise, upon oath state that the above is a true copy of the origianl.

Chas von Weise

Subscribed and sworn to before me this the 23rd of July, 1901.

Commisioner.

To be filed in the case of Ella Humes, C. F. D. 232.

Department of the Interior,
Commision to the Five Civilized Tribes,
Vinita, I. T. May 9th 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Eliza Gaines.
Q How old are you? A. I dont know exactly how old.
Q How, about how old? A. I got it you can see it. (6o)
Q What is your post office address? A. Bluejacket.
Q In what district do you live? A Cooweescoowee
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Have you ever applied to be enrolled as a freedman of any other tribeor nation? A No sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee freedman? A Yes sir.
Q Is your name on the roll of 1880? A. I dont know.
Q Who do you want to enroll besides yourself? A. Myself.
Q How many children ? A They ate on there (referring to paper)
Q Children all grown? A. Yes sir.5

The 1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A. Yes sir.

The Kern Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon page 161, #3968, Eliza Gaines, Cooweescoowee district.

By Mr. Smith, of the firm of Smith & Mellette, attorneys for applicant-

Q Were you a slave? A. Yes sir.
Q Who was your owner? A John stover.
Q Was he a Cherokee citizen? A. No sir, my Mistress was.
Q What was her name? A. Charlotte Stover.
Q Where were you during the war? A. With my Master.
Q Did you go out of the Nation? A. Yes sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66 near Chirstmas.
Q Where did you come to, what part of the Cherokee Nation? A. I come to Gibson.
Q Where do you live now? A. I live at Timbered Hill now.
Q Have you a place there? A. Yes sir.
Q Farm A Yes sir.
Q Are you on the Kern Clifton roll? A I guess I a, on it, you will have yo look to see.

By W. W. Hastings, Cherokee representative-

Q Whom did you come back to the Cherokee Nation with? A. I come back with John Stover.
Q He brought you back? A. Yes sir, brought us to the Chickasaw Nation
Q Did he die in the Chickasaw Nation? A. Yes sir.
Q He didn't come back here after the war? A. No sir, he died over there but we come back.
Q After he died then you come back here after the war? A No sir, he died over there but we come back.
Q After he died then you come up to the Cherokee Nation? A Yes sir,

~~To be filed~~

I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but my and my sister,we hired a man to bring us.
Q What was your sister's name? A. Jane Webb, shewas Jane Brown at that time.
Q You hired a woagon did you? A. Yes sir.
Q Do you remember the man's name you hired? A. ~~Yes sir,~~ Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We staid there about, we come in the fall before Christmas, staid there until I got able to travel again.
Q About how long? A I guess it was about nearly, over six months, a year; we staid there and drawed rations.
Q Whom did you stay with at Gibson? A. We was in a tent.
Q Just you two and her husban? A. Yes sir, and the children.
Q What children did you had at that time? A. I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes sir.
Q Who did you work for at Fort Gibson? A. I washed forthe soldiers.
Q And where did you go from Fort Gibson? A. I staid there about a year and come up about Mr. Bell's
Q Mr. Hooley Bell? A. Yes sir.
Q Where was he living at thattime? A. I cant tell you, but it was somewheres where the old Fort had been and there was coffins there and anyway I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A. Yes sir.
Q How long did you stay ~~there~~ with Hooley Bell? A I staid until along in the fall.
Q You staid there from the summer until the fall? A. Yes sir.
Q About six or eight months? A Yes sir.
Q And that must have been the fall of 1867 when you staid up at Hooley Bell's ? AI dont know.
Q Now, where did you go? A I went t o Chetopa and staid there.
Q Chetopa Kansas? A Yes sir, right across the line.
Q You didn't go into the state of Kansas? A No sir.
Q You only went up near Chetopa in the Cherokee side? A. Yes sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired un to go out and work on his farm, it was a man named Larkins.
Q Now, how long didyou work for Larkins? A We staid there a long time
Q A number of years? A Yes sir, until we moved down here.
Q Until you moved where do live now? A. Yes sir.
Q After you left Hooley Bell's place you went up th Larkins place? A Yes sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? A. Yes sir, he had four in his family,his wife and two children.
Q Was Mr Larkins a citizen of the Cherokee Nation? A. I dont know, he hired us to work.
Q Have you lived in Kansas since the war? A. No sir.
Q You never went ~~bee~~ up there at all? A No sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes sir,I dont live there now, I live on Timber Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket? A Yessir.
Q What direction is that, is it on the Cooweescoowee side? A. Yes sir
Q Towards the sunset from Bluejacket? A. Yes sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A. They was with me some and I had some hired out.
Q You staid about three or four years at the Larkins place? A Yes sir
Q Did you have any neighbors around there? A. There was no neighbors but one family.
Q What was that family? A John Shafer.

Q Did he live in the Cherokee Nation? A.,Yes sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles
Q Down on the Cherokee side? A. Yes sir.
Q South of Chetopa? A. Yes sir.
Q You were living there when the rialroad come there? A No sir, wasn't no railroad,living there long before the railroad was built.
Q You were living there when the railroad was built? A. Yes,sir, there wasn't no houses when the railraod came through.
Q Were you living at Larkins when the railroad come there? A Yes sir
Q Now, Aunty, how far from the railroad track, the M. K. & T. were you living? A I dont know, we could not hear the tran.
Q On the south side of the track? A. That was on this side of the track; over in Cooweescoowee.

By Mr. Smith-

Q Who are your children? A John Henry.
Q John Henry What? A. John Henry Nash, Julia Nash, Lizzie, Georgia Ann, Malindam Etta, Berry, the other three is dead.
Q How many? A. Three is dead.
Q How many are alive now that you name? A.(No response)
Q You dont mean that any of those whose names you give are dead? A. A No sir.
Q Do they go by this name name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash,he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A. There is Mary Mayberry.

CHARLEY CHAMBERS,called as a witness on the part of applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Charley Chambers.
Q How old are you,Mr. Chambers? A 78.
Q What is your post office address? A. Hudson.

By Mr. Smith-

Q Do you know Eliza Nash or Eliza Gaines? A Yes sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A. When I first known her she was at, my first knowing her, I seen her at Fort Gibson.
Q Are you a freedman? A Yes sir.
Q Are you on the 1880 roll, or not? A Yes sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No sir; Yes sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes sir.
Q Do you remember when you got back to the Cherokee Nation? A Yes sir
Q When was it? A. I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river
Q How long was it after you came back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well I come back in along, in the Summer and I come up from there and come up to Tahlequah where my olf folks was living and it was that winter about the next,I mean the next year, the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back? A. Along in the summer,spring like.
Q Of 1865? A Yes sir.
Q And the following winter? A No, it was the year we called there, that winter and the next winter,come in the same winter,that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes sir.

Q Do you know her children, know what their names as all of them, or not? A No, sir; I dont know; I never seen any of the children them, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

By W. W. Hastings-

Q Did you see her then the one time, Mr. Chambers? A No sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer ? A Yes sir, after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there,
Q Are you positive you saw her? A Yes sir, I am positive I saw her there.
Q Are you positive about the year you saw her? A. It is the same winter after I come there; you see I staid there all that summer down there to Fort Smith and alongin the fall I come up there.
Q And that is the fall you saw her? A Yes sir, that winter I seen her
Q You know that? A. Yes sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865? A Yes sir.
Q And say it was the next winter you saw her? A. Yes sir, I staid that summer there at Fot Smith in the bottom,understanding me right;I staid there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I staid there all fall and that fall I went down to Gibson, riding about as usual and staid around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A Yes sir.
Q You remember seeing her? A. Yes sir.
Q Well when did you next see her? A. I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A. I cant call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know dont you, dont you recall.
Q I was not there. A There at Fort Gibson.
Q When did you next see her? A. I never seen her from over there, I never seen her any more until I saw her up there where she is living nowm at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A A Four or five years.
Q You dont know whereshe had been in the meantime? A No sir; but I dont think she had been anywhere but, I heard of her living up by William Tucker's
Q You never did see her up there? A. No sir.
Q Have you ever been arrested? A. Yes sir.
Q What for? A. For several things.
Q How many times? A. Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What Court? A. Cherokee, arrested one time by the United States Court
Q What for? A. For shooting at a man.
Q What was done with you? . Never done anything with me.
Q Did they try you? A. Yes sir, never done anything.
Q What did they do with you in the Cherokee Court? A. Nothing, turned me aloose and let me go home.
Q Never was convicted? A No sir.
Q You dont remember seeing anybody but this woman in 1866? A Oh, I seen lots-others.
Q I mean of her family? A If I did I didn't know 'em'

JAMES ALBERTY,being sworn and examined by Commissioner T. B. Needles,testified as follows:

Q What is your name? A. James Alberty.
Q What is your post office address? A. Chouteau.
Q How old are you, James? A. I am near 70 or older, I dont know.
Q Are you a citizen of the Cherokee Nation? A. Yes sir, I drawed money,

votes.
Q Is your name on the roll of 1880? A No sir.

By Mr. Smith-

Q Do you know Eliza Gaines? A Yes sir.
Q Sometimes calld Nash? A. I know her.
Q How long have you know her? A I dont know how long, I know her when she was with her old master, I dont know how long that has been.
Q Whp was that? A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A. Yes sir, south.
Q When did you return to the Cherokee Nation? A. I returned in '66 before the Treaty was made.
Q Did you know where Eliza Nash was at that time? A (No response)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A. At Gibson.
Q When ? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you know any of her family, any of her children? A No sir, I could not tell anything about them.
Q Did you know her sister? A. Yes sir.
Q What was her sister's name? A. Lydia was one and Jane was one and if I don't mistake,Mary was one, that I recollect.
Q Do you remember seeing any of them? A. Yes sir.
Q Who did you see? A. Lydia that I noticed.
Q That you remember? A. Yes sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No sir, I dont knowe

By W. W. Hastings:

Q Whom did you belong to when the war broke out? A. John Alberty.
Q John Alberty sold you out of here Before the war? A. No sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time ofmthe war? A. Yess sir, I never belonged to anyone else that I know of.
Q He never sold you out? A. No sir.
Q Where were you living when the war come up? A. Right at Pryor creek right at the toll bridge
Q Where was this woman living when the war come up? A At stover's
Q How far was that from where you were living? A I trainedhorses right there by Wilson's
Q Whom didyou train horses for? A. Trained horses for Jim Kell.
Q And you knew Eliza before the war? A. Yes sir.
Q What were you doing at Fort Gibson when you saw her there? A Nothing just riding agbout getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A. She was there washing, I dont know where she was living.
Q How do you happen to remember seeing her?A I stopped there where she was and talked with her.
Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A. On Cabbin creek.
Q Where is that? A. I dont know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A. Bill Tucker's
Q On Cabin creek? A Yes sir.
Q When was that you saw her there? A. I dont know, it may have been a year or maybe more.
Q She was living up there then? A Yes sir, in the house not far from Mr. Tucker's
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I dont know.
Q She moved from where she lived on Cabin creek to where she lives now? A. Yes sir.
Q West of Bluejacket? A Yes sir, west of Bluejacket.

Q Jim, were you ever tried for anything by he Courts? A No sir.
Q Never was arrested? A No sir, not by Courts, I was not.
Q By Marshals? A No sir, I used to be a Marshal myself, I never was arrested for any crime of any kind, never was.

Com'r Needles, Eliza Gilmes applies for the enrollment of herself as a Cherokee freedman. Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this Commission except the Kern Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

* * * * * * * * *

J. O. Rosson, being first duly sworn, states that as stenographer to he Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

(signed) C. R. Breckinridge,

Commissioner.

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I, Chas. von Weise, upon my oath state that the foregoing is a true copy of the original.

Chas von Weise

Subscribed and sworn to before me this 23rd of July, 1901.

Commissioner.

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14 D. 232

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the .....day of.....A. D. 1901.

Given under my hand this.....

day.....A. D. 1901.

.....

Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the .....day of SEP 16 1901 1901.

.....

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the.....day of A.D.1901

.....

Subscribed and sworn to before me this.....day of .....A.D.1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 18 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Ellen Parris for enrollment as a Cherokee Freedman:

Case No. F. D. 232

To Ellen Parris & Mollie Tenile her attyo

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of [illegible] Indian Territory, on the following dates, to-wit: Oct 17th A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

at 8 o'clock A. M.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12 day of Sept, 1901.

L B Bell

Attorneys for the Cherokee Nation.

File with case of Ella Humes, C.F.-D.#232.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir. I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~xxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it awey from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When,if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Where wasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Xxxxx~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to September.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn't nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 1th, 1389.

John W. Wallace, Commissi oner."

A The o ly employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1389, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

F. D-220.

To be filed with C. F. D. 231, Ella Humes.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 20th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover,	
	Eliza Stover,	
	Jane Stover,	PETITION FOR CITIZENSHIP.
	Berry Stover,	
	Lydia Stover,	
	Angelina Stover,	J. H. Bryan,
	Mary Stover,	Atty for Claimant.
	vs	
	Cherokee Nation.	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 20th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of hem are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones' et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Groom et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B C Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Ella Humes, D 232;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immatorial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly stremuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 233
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 317
Harriett Tucker et al	Cherokee Freedmen D 337
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Rosie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse M., Olin and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, for

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Crosby for herself and minor children, Martha, Dora, Peter W., Lorretha and Emma Crosby; by Henry Nash for himself; by Edward Nash for himself; by Curtis Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Tucker, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Mary Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Fannie, Lena, Laura and Lettie Martin; by Nellie Brown for herself and minor children, Tom, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Olen Martin, Lula Christian, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah L. Tucker; by Lula Carter for herself; by Allie McIlroy, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellen Grimes, Jane Webb, Henry Christian, Linda Carter, Aaron Martin, George Martin, Israel Martin, Julia Johnson and Georgia Grimes are the principal applicants herein; and that all the other applicants in these several cases have been born since 1866 and, with the exception of Ella Grimes and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Grimes is the daughter of Rose Mange, sister of Ellen Grimes, one of said principal applicants, and claims right to enrollment through her; that she did not know who was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 1902.

The said Alice Martin was duly enrolled on the 1896 authenticated roll of the Cherokee Nation for a child, by colored citizen.

All of the applicants have lived in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears, from affidavits, made a part of the record herein, that the applicant, Henry Johnson, died in October, 1901, and that the applicant, Ellen Crosby, died in October, 1901, and that the applicant, Emma Crosby, died in November, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on said date shall

[illegible] on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Grames, Jane Webb, Mary [illegible], Frank Labry, [illegible] Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia [illegible], Georgia Jones, John W. Jones, Allen Jones, Charlie Jones, Julie Jones, Walter Jones, Dixie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy [illegible], Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, [illegible] Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Greens, Jona Greens, Peter W. Greens, Neuretha Greens, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Jones, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Rachel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Dixie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Glen Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah [illegible]. Tucker, Hydia Carter, Allie McIlroy, [illegible] Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Greens and Annie Greens, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) C. R. Kinley, Commissioner.

Muskogee, Indian Territory,

this Sept 2-1906.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., OCTOBER 5, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of AARON MARTIN as a Cherokee Freedman.

APPEARANCES:
For Applicant, I. P. Bledsoe, Agent.
For Cherokee Nation, W. W. Hastings.

WILLIAM A. REEDER, being first duly sworn, testified as follows:

BY MR. HASTINGS:
Q What is your name? A William A. Reeder.
Q What is your post office? A Chelsea, I. T.
Q What is your age? A 43.
Q How long has Chelsea been your post office? A It has been my post office I guess about 18 years.
Q What is your business? A I run a blacksmith and repair, and wood work in connection.
Q Do you make coffins? A Yes sir, quite often.
Q How long have you been making coffins, since you have been running that wood shop? A Yes sir, before I formerly commenced in the carpenter business there or I commenced in the blacksmith and repair shop, I have been in Chelsea in that vicinity 21 years next January.
Q Do you know this witness here, Mike Martin? A Yes sir.
Q Did you know his father, Aaron Martin? A Yes sir.
Q Do you know whether or not you made a coffin for Mike Martin for his father Aaton? A I did.
Q Have you got books here which would indicate the time that this coffin was made for Mike in which to bury his father, Aaron Martin? A Yes sir.
Q Please examine those books and state what they show? A Mike Martin db. one coffin, $11.00, March 7, 1902.
Q Was that coffin made for Mike Martin for his father Aaron?
A Yes sir.
Q And was it on March 7, 1902? A Yes sir.
Q Have you any personal recollection about it other than what your books disclose? A Yes sir, the reason I never would forget it, it was three feet deep, he was crippled with rheumatism and I had to make it three feet deep. I think it was 3 by 6--4.
Q It was an unusual coffin? A Yes sir, the largest one I ever made.
Q Is the book here which you present your day book which you kept all your transactions at that time? A Yes sir.
Q Has this book been in your possession ever since? A Yes sir.
Q Has this account which you have referred to been transferred to your other book? A Yes sir, just for the balance, that is all.
Q I see another item immediately under the one that you have called attention to, Mike Martin Cr. by cash $2.50, was there that much paid upon that coffin at that time? A Yes sir.
Q Does your other bookto which thisitem was transferred from this day book, doesit show when the other was paid, when the remainder was paid? A I shows of the making, and there is a $2.50 March 7, 1902, and this was for $11/00.

Q Now the book which you present here, is on page 74 is Mike Martin's account with you? A Yes sir.
Q And this is the same Mike Martin here as a witness? A Yes sir.
Q You know him personally? A Yes sir.
Q And you know this coffin was made for his father? A Yes sir.
Q And this item on the page which you present, which is a ledger book was transferred from that day book? A Yes sir, and the first of the year you know I transferred to the ledger, and that is the balance forwarded to the next ledger $10/20.
Q You have no interest whatever in this matter? A No sir.
Q These two books have been in pour possession have they all the time? A Yes sir.
Q This item was placed in this day book at the time the coffin was made? A Yes sir, the very day.
Q On March 7? A Yes sir.
Q Now on the page just before that referring to the day book, I see you have some items marked March 4, 1902, that is correct is it of work done for other parties? A Yes sir
Q Now I turn over to page 103 and I notice you have a number of items of work done for other parties and that is marked March 8, 1902, is it not? A Yes sir.
Q You are certain that this date as shown by your day book and afterwards transferred to your ledger there of March 7, 1902, is a correct date? A Yes sir.

BY MR. BLEDSOE:
Q You are positive about those dates, that it was on March 7, 1902?
A Yes sir.
Q Now as I understand from him the affidavit that was taken here, he states that his father died just one week before this affidavit was issued as guardian for those children, and those Letters of Guardianship were issued the 25th day of September, and he says he is satisfied that just one week, and that would make it about the 17 or 18th of September? A Well of course I didn't see him die, I have just got this for it and they are my books and have been in my possession always and I done this work myself, no hand set it down or nothing, I done it all of my book keeping.

BY MR. HASTINGS:
Q I notice your day book which you present contains 168 pages, the last item that you have got in this particular book is dated the 26th day of July, 1902, is it not? A Yes sir.
Q Then you never put any items in that book after that time, in this day book? A No sir, then that was laid aside and a new one took its place.
Q In other words this day book was filled up in July, 1902? A Yes sir.
Q And the item from which you read was on page 102, and there are 65 more pages in this book filled up with different items along?
A Yes sir.
Q Running along as far as July, 1902? A Yes sir.

W I T N E S S E X C U S E D.

MIKE MARTIN, being first duly sworn, testified as follows:

BY MR. BLEDSOE:
Q What is your name? A Mike Martin.
Q How old are you? A 40 years old.

Q Where do you live? A Close to Chelsea.
Q How long have you lived there? A About 20 more of years.
Q What relation to you was Aaron Martin? A My father.
Q Is Aaron Martin living or dead? A He is dead.
Q Do you know when he died? A No sir, not exactly, no more than the record those fellows give me up there at Vinita, that is all I know about it, he was just dead one week when I went and got my guardian papers.
Q How do you know or what makes you form that conclusion, that he died just a week before these papers were gotten up? A In 3 days after he died I went to Vinita and I says now Mr. Wilson my father is dead, now what can be done about it, and he says you had better come up and get out guardian papers, so all the money owing to him, you can collect it, so I says I will come back right away and I come back right away, and if my memory serves me right he died on Thursday so I come back on the next Thursday and got these papers out, and he says now all the moneys owing to him you can get it of the folks owes you, and at the same time Mr. Elliot was owing him $100.00 so Mr. Elliot paid that all right, that is all I know about it, if thes papers is right that there man is wrong, if these papers is wrong that there man is right, that is all I know about it. I just give you the truth.
Q Did you hire this man Reeder to make the coffin? A Yes sir.
Q Do you recollect about paying him for the coffin? A I paid him, I guess in about a month after he made the coffin.
Q You paid for the coffin yourself? A Yes sir.
Q Have you got his receipts at home? A No sir.
Q Did you take any receipts at all? A No sir.
Q Have you any other proof besides this in regard to the death of your father? A There are several people known that he was just dead one week when I got these papers out. Now I haveone of my bondsmen, that is Chris Clos. He was one of my bondsmen.
Q Who was there when your father died? A John Mumbles and all of their boys and his other children, and I think there was several of them, I don't know who all was there. Now that is all I know , that is all I have got to go by at all.
Q Could you get those people before the Commission? A I aint got no money and they want come unless I pay the way, I aint got no money to pay them.

BY MR. HASTINGS:

Q How much did you pay Mr. Reeder on it, when you got that coffin?
A No sir, not a cent.
Q Did you pay him the next day? A No sir, it was quite a little while.
Q How long before you paid him? A Probably it might have been a month and probably not so much.
Q How much did you pay him for the coffin? A I think, if I mistake not, I paid him $13.00.
Q $13.00? A Yes sir.
Q Who was your doctor that waited on your father? A Dr. J. W. Bowman.
Q You wouldn't swear the other day whether it was spring, summer, fall or winter? A No sir.
Q You wouldn't swear the year he died? A No sir, nor I want do it yet.
Q Don't know anything about the month of it? A No sir, all I am going by his this paper.

Q But you did get the coffin from this same man that was on the stand here? A Yes sir.
Q You are the Mike Martin to whom he referred? A Yes sir.
Q And you are the son of this Aaron Martin? A Yes sir.
Q And your father was stooped over and it required an unusual coffin for him? A Yes sir.

BY MR. BLEDSOE:
Q Did Dr. Bowman attend on your father? A Yes sir.
Q Will you get his statement and send it to the Commission or to me? A Yes sir.

Mr. Hastings: I desire to call the attention of the Agent for the applicant to the fact that Dr. J. W. Bowman's sworn statement is on file in connection with these papers, and that he swears that he attended on this said Aaron Martin and he also swears that Aaron Martin died on March 7, 1902. I know ask him if he is willing to accept that statement.

Mr. Bledsoe, to witness: If the Doctor swears that he died in March in this record here Mike, that is conclusive proof that he died at that time? Witness: That is all I know about it.

Mr. Hastings: The Cherokee Nation made every effort to get Dr. J. W. Bowman present to testify before the Commissioner in this case the last Thursday, as well on this Thursday, but it has no way of compelling his attendance and in reply to our letters stated that he could not be here today. I desire to state this for the purpose of showing that we had made an effort to have him in attendance.

The Agent for the applicant and the Attorneys for the Cherokee Nation announce that they have no further evidence to introduce in this case, this case will be closed and a decision rendered on the evidence heretofore introduced.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 7th day of October, 1905.

Fleon Tate,

Notary Public.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Ella Humes,
Vinita, I.T.
Cherokee F-D-232
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Harry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Dana Dean, Henrietta Dean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDOLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Ellen, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Annis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

Cherokee Freedmen
D-232.

Muskogee, Indian Territory, September 30, 1903.

Ella Humes,

Vinita, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Chairman.

Register.
Enc. D-84

COPY

Cherokee F. D-230
et al.

Muskogee, Indian Territory, September 9,1903

W. . Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5,1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Henry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Melinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Mellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah H.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper, as Cherokee freedmen and dismissing the applications for the enrollment of George Johnson, and Eliza and Annie Groom as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. 1-6

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dumeron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM

(Signed) A. C. Tonner.

5 enclosures.

Acting Commissioner.

D C 10862-1904.

ITD 833-1904.

L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

J.P.

WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John M. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-232.

Muskogee, Indian Territory, April 18, 1904.

Ella Humes,

Vinita, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Louretha Grooms, Bery and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley, and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
D-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie S West,
F-1417 ---------- Callie S West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh L. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lettie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Greems,
3564	Dona Greems,
3565	Peter W. Greems,
3566	Lauretha Greems,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Numes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lissie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callie West,
3877	Callie S West,
4079	Henry West,
4080	Callie S West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

L.S.

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in r reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citi zens of the Cherokee Nation, in accordance with the Department's ruling in the Harry still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee By blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the whter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905(Land 38933-1905), and affirmed by the Department August 5, 1905(I.T.D. 7576-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15572-1906), in the case of Amo Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Departmen t, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M B

Commissioner

COPY.

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

Freedmen approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his dea death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this pase prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll or citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were sl ves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War: that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Albery has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opendd, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

--Copy--

JFJr

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

LLB

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

COPY

Cherokee F.
1293

Muskogee, Indian Territory, March 7, 1907.

Ella Humes,

Vinita, Indian Territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED [illegible]

Commissioner.

Encl.H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl. H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T. 47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1293

Muskogee, Indian Territory, June 8, 1907.

Ella Humes,

Vinita, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-13.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

REGISTERED
APR
MUSKOG

ERED
17 190

Cher Fr 1294

See Cher Fr 1295-6-7-9-1300-1-787

D 239-40-311-342-8-727

R 723

Cher Fr 1294

(C O P Y)

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee Freedmen, he being sworn and examined by Commissioner T. B. Needles testified as follows:

Q What is your name? A Aaron Martin.
Q How old are you Aaron? A. I guess about 67 or 68
Q What is your post office address? A. Chelsea.
Q What district do you live in? A. Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A. Yes sir
Q Who do you want to enroll besides yourself? A. I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A. 13
Q The next one? A. Neely
Q How old is Neely? A. About 9.
Q The next one? A. Phoebe
Q About how old is Phoebe? A. A out 7.
Q What was the mother's name of these children? A. Cora Adams
Q Her name was Cora Adams before she married you? A. Yes sir
Q About how old would Cora be if she were alive? A. I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A. Yes sir.
Q Is your name on the roll of 1880? A. I don't know , sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A. No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 censu roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

Q Did you receive your money known as the Cherokee Strip money?
A Yes sir

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

Q Aaron, were you a slave before the war? A. Yes sir.
Q Who did you belong to? A. John Martin.
Q Was he a Cherokee citizen? A. Yes sir.
Q By blood? A. Yes sir.
Q Did you go out of the Cherokee Nation during the war? A. Yes sir
Q Where to? A. To Kansas
Q When did you return from Kansas after the war? A. In '66
Q Have you been living in the Cherokee Nation ever since 1866?
A Yes sir.
Q Your name is not found on the roll of 1880; do you know the reason why? A. No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A. No sir, I didn't.
Q Have you any witnesses here? A. Yes sir.
Q Who are they? A. Cap Hicks, and Andrew Drey.

W. W. Hastings: Where did you come to when you come back? A. I come to Dr. Thompson's place over there to Grand River.
Q Are you a blacksmith? A. No sir.
Q Another Martin is a blacksmith? A. Yes sir
Q Who was living down there at the Thompson place when you come back? A. Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
Q How long did you live at that place? A. I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks' mother then.
Q About what time did you come down to the Cherokee Nation after the war--what time in '66? A. It was some time in the fall
Q You have lived there ever since? A. Yes sir.

ANDREW FREY, bein sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:
Q Is your name Andrew Frey? A. Yes sir
Q How old are you? A. 66
Q What is your postoffice? A. Vinita
Q Are you a recognized citizen of the Cherokee Nation? A. Yes sir
Q Freedman? A. Yes sir
Q Do you know Aaron Martin? A. Yes sir
Q How long have you known him? A. Why, I don't know, sir, just exactly how long, ever since we were boys.
Q Was he a slave? A. Yes sir
Q To whom did he belong? A. He belonged to John Martin.
Q Do you know where Aaron Martin was in the year 1866? A. Yes sir
Q Where? A. He was over here across the river part of the year 1866.
Q In the Cherokee Nation? A. Yes sir
Q Did he go out of the Cherokee Nation during the war? A. Yes sir
Q Where did he go? A. He went to Fort Scott and from Fort Scott to Garnett, all around in there, He didn't stay at one place long.
Q Did he return? A. Yes sir.
Q In what year? A. In '66
Q Are you any relation to him? A. No sir
Q Was he married at that time? A. Yes sir.
Q Was his family with him? A. Yes sir
Q Did his family return with him? A. Yes sir
Q Were you a slave? A. Yes sir
Q To whom did you belong? A.I belonged to Mary Clark
Q Were you in Kansas with Aaron Martin? A. Yes sir.
Q Did you return with him? A. Yes sir
Q Have you known Aaron Martin well since that time? A. Yes sir
Q Has he lived in the Cherokee Nation since? A. Yes sir

W. W. Hastings: You say he come back with you? A. Yes sir
Q Who else come along? A. There were lots of others, I don't recollect now who all came along; there was a big crowd of us.
Q Well, name some of the rest of them? A. Peter Williams
Q Anybody else? A. Tobe Scrimsher, Jake Martin's family
Q Anybody else? A. I don't know how else.
Q That is all you can remember? A. Yes sir
Q What time in the year did he come back? A. He come back--we got back over to Dr. Thompson's place the 3rd of October, '66.
Q Any colored folks there when you got there? A. No one at all
Q You are positive about that are you? A. Yes sir, no one at all there.
Q That was in October, '66? A. Yes sir.
L. B. Bell: Who got back there first, you or Judge Daniels family?
A Me.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:

Q What is your name? A. Filmore Hicks.
Q What is your age? A. 53.
Q What is your postoffice address? A. Vinita now.
Q Are you a citizen of the Cherokee Nation? A. Yes sir
Q By blood? A. Yes sir
Q Do you know the applicant, Aaron Martin? A. Yes sir!
Q How long have you known him? A. I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A. A. Yes sir, I suppose he was.
Q Who did he belong to? A. John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A. Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A. Late in the fall of '66.
Q Where at? A. At my mother's.
Q Have you known him since that? A. Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A. Yes sir
Q Did he have a family at that time? A. Yes sir
Q Was his family with him? A. Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A. Yes sir.
Q Did he farm that land in the fall of '66? A. No sir, in the fall of '67
W. W. Hastings: Who farmed in in '76? A. Young Wolf, my mother's husband
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A. We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A. Yes sir .
Q Are you positive this man tilled land there in the year '67?
A Yes sir.
Q Do you know what he cultivated? A. He put in corn
Q About what size farm did your mother have that year? A. About 20 or 25 acres.
Q You were at home then with her? A. Yes sir
Q What was your age then? A. 17 or 18
Q Did your mother have any other help besides you? A. A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A. Not much.
Commissioner of Applicant: Did you draw money for Frances and Neely? A. Yes sir

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:
Page 23, No. 568, Frances Adams, Delaware District
Page 23, No. 569, Nealey Adams, Delaware District.

Q Are their names Adams or Martin? A. Martin is their name.
Q You didn't draw any money for Phoebe? A. No sir, she was too young they said.
Q These children all alive and living with you at this time?
A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

Aaron Martin applies for the enrollment of himself and three children, Frances, Neely and Phoebe. His name is not found upon the authenticated roll of 1880, but is found upon the Kerns Clifton Roll. By reason of the fact that his name is not found upon the roll of 1880 and his citizenship is contested by the Cherokee Nation, his name will be placed upon a doubtful card. When the Commission arrives at a decision in his case, he will be notified by mail. He avers that his children, Frances, Neely and Phoebe, are the children of Cora Adams, his wife, and the name of Cora Adam is found upon the authenticated roll of 1880, and Frances and Neely are identified on the Kerns Clifton Pay roll. The name of Phoebe is not found upon any roll, having been born after the said rolls were compiled. They are all duly identified and make satisfactory proof as to residence, consequently, Frances, Neely, and Phoebe Martin will be duly listed for enrollment as Cherokee Freedmen. Their names appear upon the Kerns Clifton Roll as Adams, but they are duly identified as the applicants. In order to complete the enrollment of Phoebe it will be necessary for him to file with the Commission satisfactory proof of birth of said Phoebe.

The undersigned , being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. G. ROTHENBERGER

Subscribed and sworn to before me this 11th day of May, 1901.

(Signed) M. D. GREEN
Notary Public.

Lucy M. Bowman being duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that same is a full true and correct copy of the original transcript.

Lucy M. T. Bowman

Subscribed and sworn to before me this 10th day of March, 1906.

Chas. E. Nelson
Notary Public.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 6, 1901

Post Office Chelsea I.T.

District Cso

1. Name Aaron Martin Age 67

Owner's name John Martin Citizenship Cherokee

Year Dec. Page 118 No. 2939 District Delaware

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

~~1. Name of wife Dorothy Age .....~~

~~Owner's name ..... Citizenship .....~~

~~Year ..... Page ..... No. ..... District .....~~

~~Parents:~~

~~Father ..... Citizenship .....~~

~~Mother ..... Citizenship .....~~

Names of Children:

2.	~~Frances Martin~~	Year ~~Dec.~~	Page ~~28~~	No. ~~576~~	Dist. Del.	13
3.	~~Mary~~ "	Year	Page ~~28~~	No. ~~579~~	Dist. "	9
4.	~~Phoebe~~ "	Year	Page	No.	Dist.	7
5.		Year	Page	No.	Dist.	
6.		Year	Page	No.	Dist.	
7.		Year	Page	No.	Dist.	
8.		Year	Page	No.	Dist.	
9.		Year	Page	No.	Dist.	
10.		Year	Page	No.	Dist.	
11.		Year	Page	No.	Dist.	
12.		Year	Page	No.	Dist.	

Application made by Mas. Stenographer C. G. Rothenberger

~~2 Correct name, not as Frances Adams~~

~~3 " " " " Mary " "~~

~~4 Off of birth required~~

X 1 0 7

JC

Allotment F-3572.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES,
CHEROKEE LAND OFFICE.
Tahlequah, I. T., July 12, 1905.

In the matter of the application for the selection of an allotment and the designation of a homestead in the Cherokee Nation for Aaron Martin. No. F-3572.

MIKE MARTIN, being duly sworn by Joe Chambers, a Notary Public, and examined on behalf of the Commissioner, testified as follows:----

Q What is your name? A Mike Martin.
Q How old are you? A About 39 years old.
Q What is your post-office? A Chelsea.
Q Are you a Cherokee Freedman? A Yes sir.
Q What is the name of your father? A Aaron Martin.
Q You have just executed an affidavit showing the death of your father about the 18th of September, 1902. Is that correct? A Yes sir.
Q Are you sure of that? A Yes sir.
Q You are sure he died after the closing of the roll? A Yes sir.
Q Have you any record at home of his death? A When I got out the guardianship papers for his children he was just dead a week.
Q They were issued on September 25, 1902? A Yes sir.
Q Has an administrator ever been appointed for his estate?
A No sir.
Q You are guardian for his children? A Yes sir.
Q Are you holding any land as his allotment in the Cherokee Nation? A Yes sir. I've got some land.
Q Whereabouts is it? A Close to Alluwe on the river.
Q Has it any improvements on it? A No sir. Has none at all; just brush and timber.
Q It is public domain is it? A Yes sir.
Q Any one else claim it? A No sir.

Joe Chambers, being duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he correctly recorded the testimony in this case, and that the above and foregoing is a true and complete copy of his stenographic notes.

Joe Chambers

Subscribed and sworn to before me this 19th day of July, 1905.

A Muncey
Notary Public.

JC

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., SEPTEMBER 28, 1905.

SUPPLEMENTAL PROCEEDINGS, had in the matter of the application for the enrollment of AARON MARTIN as a Cherokee freedman.

MIKE MARTIN, being first duly sworn, testified as follows:

BY MR. HASTINGS:
Q What is your name? A Mike Martin.
Q What is your age? A 40 years old.
Q What is your post office? A Chelsea.
Q What is your father's name? A Aaron Martin.
Q Is he dead? A Yes sir.
Q Are you the administrator of his estate? A On the children's estate.
Q Are you administrator of Aaron Martin's estate? A No sir.
Q Did you file for him? A Yes sir.
Q What time of the year did Aaron Martin die? A I couldn't tell you, all the way I could tell you is when I gout out those guardian papers for those children.
Q What doctor attended upon Aaron Martin during his last illness?
A Dr. Bowman.
Q Don't you know he died in the spring of the yex in March? A No sir, I don't.
Q You don't know what time of the yex he died? A No sir.
Q You don't know what month? A No sir.
Q Do you know how many years ago he died? A No sir.
Q Have you ever made affidavit? A Probably it may have been two or three years.
Q Have you ever made affidavit as to the time that he should have died? A I made affidavit in this way, when the Commissioner's write me and later they has wrote me and later to come down to do his filing, one of the boys went down and told him he was dead ad said one of his sons was guardian over his children and told him to come down and bring those papers and I went down there and they says what time did he die and I said just one week before these papers were made out.
Q Didn't you tell the boys in the Cherokee Land Office what date to insert in this death certificate? A Told him he was dead a week before those papers were made out.
Q You don't mean to tell this commission that your father died within the last 4 or 5 years and you don't know what time of the year it was? A No sir.
Q You don't know whether it was summer or winter, spring or fall?
A No sir, I know it was kinder cold.
Q Do you know William A. Redder of Chelsea? A Yes sir
Q How far does he live from you? A About 6 miles probably.
Q Now if Dr. J. W. Bowman swears that he died on the 7th day of March, 1902, and if he attended him during his last illness, are you prepared to dispute that under oath? A I don't know about it. Now if there is anything wrong in it the man that made those papers out he is the man that made it wrong. Mr. Wilson when I went up there,----
Q Were you at Vinita when these letters of guardianship were made out? A Yes sir.
Q Are you the identical Mike Martin named here? A Yes sir.
Q How long had your father been dead when these papers were made out? A One week.

Q Will you swear to that positively? A Yes sir, been dead just one week when those papers were gotten out and I went up there during the middle of the week and I says my father is dead, and he says you want to come in and be the guardian for the children so all the money folks owes him you can collect it, and he says when did he die and I says he been dead about three days ago, and he says you come in and get it fixed out so went up and come right back inside of a week and he made me them papers out. Now if there is anything wrong he done it, I didn't do it. I wasn't thinking nothing about filing until after they sent me that paper.

Q Why were you thinking about filing? A I don't know, I could file for him.

Q Don't you know he died prior to September 1, 1902? A No sir, I didN't think we could file for anybody after they were dead.

Q These are the Letters of Guardianship appointing you guardian at Vinita, and dated September 25, 1902? A Yes sir, Mr. Wilson is the man tha got them out.

BY THE COMMISSIONER:

Q Has any one made application for the selection of an allotment of land in the Cherokee Nation for your father, Aaron Martin? A I did.

Q You made application for an allotment? A Yes sir.

Q Have you been appointed administrator of his estate? A No sir, no more than guardian for those children, when I went down there and showed him those papers he says you can file this, but if you want to sell it you will have to be appointed administrator over it, so he says you can file it so I went ahead and filed it.

BY MR. HASTINGS:

Q Can you read and write? A No sir, don't know one letter from another.

BY THE COMMISSIONER:

Q No one has been appointed administrator of his estate? A No sir.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes he reported the proceedings had in the above entitled cause and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H Lessley

Subscribed and sworn to before me this 6th day of October, 1905.

Myron White

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
MUSKOGEE, I. T. OCTOBER 5, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of AARON MARTIN as a Cherokee Freedman.

APPEARANCES:
For Applicant, I. P. Bledsoe, Agent.
For Cherokee Nation, W. W. Hastings.

WILLIAM A. REEDER, being first duly sworn, testified as follows

BY MR. HASTINGS:

Q What is your name? A. William A Reeder
Q What is your post office? A. Chelsea, I. T.
Q What is your age? A. 4 .
Q How long has Chelsea been your post office? A. It has been my post office I guess about 18 years.
Q What is your business? A. I run a blacksmith and repair, and wood work in connection.
Q Do you make coffins? A. Yes sir, quite often.
Q How long have you been making coffins, since you have been running that wood shop? A. Yes sir, before I formerly commenced in the carpenter business there or I commenced in the blacksmith and repair shop, I have been in Chelsea in that vicinity 21 years next January.
Q Do you know this witness here, Mike Martin? A. Yes sir.
Q Did you know his father, Aaron Martin? A. Yes,sir
Q Do you know whether or not you made a coffin for Mike Martin for his father Aaron? A. I did.
Q Have you got books here which would indicate the time that this coffin was made for Mike in which to bury his father, Aaron Martin? A. Yes sir
Q Please examine those books and state what they show? A. Mike Martin db. one coffin, $11.00, March 7, 1902.
Q Was that coffin made for Mike Martin for his father Aaron?
A Yes sir
Q And was it on March 7, 1902? A. Yes sir.
Q Have you any personal recollection about it other than what your books disclose ? A. Yes sir, the reason I never would forget it, it was three feet deep, he was crippled with rheumatism and I had to make it three feet deep. I think it was 3 by 6--4.
Q It was an unusual coffin? A. Yes sir, the largest one I ever made.
Q Is the book here which you present your day book which you kept all your transactions at that time? A Yes sir.

Q Has this book been in your possession ever since? A. Yes sir
Q Has this account which you have referred to been transferred to your other book? A. Yes sir, just for the balance, that is all.
Q I see another item immediately under the one that you have called attention to, Mike Martin Cr. by cash $2.50, was there that much paid upon that coffin at that time? A. Yes sir
Q Does your other book to which t is item was transferred from this day book, does it show when the other was paid, when the remainder was paid? A. I shows of the making, and there is a ~~xxxx~~ $2.50 March 7, 1902, and this was for $11.00
Q Now the book which you present here, is on page 74 is Mike Martin's account with you? A. Yes sir
Q And this is the same Mike Martin here as a witness? A. Yes sir
Q You know him personally? A. Yes sir
Q And you know this coffin was made for his father? A. Yes sir
Q And this item on the page which you present, which is a ledger book was transferred from that day book? A. Yes sir, and the first of the year you know I transferred to the ledger, and that is the balance forwarded to the next ledger $10.20
Q You have no interest whatever in this matter? A. No sir.
Q These two books have been in your possession have they all the time? A. Yes sir.
Q This item was placed in this day book at the time the coffin was made? A. Yes sir, the very day.
Q On March 7? A. Yes sir.
Q Now on the page just before that referring to the day book, I see you have some items marked March 4, 1902, that is correct is it of work done for other parties? A. Yes sir.
Q Now I turn over to page 103 and I notice you have a number of items of work done for other parties and that is marked March 8, 1902, is it not? A. Yes sir.
Q You are certain that this date as shown by your day book and afterwards transferred to your ledger there of March 7, 1902, is a correct date? A. Yes sir.

BY MR. BLEDSOE:
Q You are positive about those dates, that it was on March 7, 1902
A Yes sir
Q Now as I understand from him the affidavit that was taken here he states that his father died just one week before this affidavit was issued as guardian for those children, and those Letters of Guardianship were issued the 25th day of September, and he says he is satisfied that just one week, and that would make it about the 17 or 18th of September? A. Well of course I didn't see him die, I have just got this for it, and they are my books and have been in my possession always and I done this work myself, no hand set it down or nothing, I done it all of my book keeping.

BY MR. HASTINGS:
Q I notice your day book which you present contains 168 pages the last item that you have got in this particular book is dated the 26th day of July, 1902, is it not? A. Yes sir
Q Then you never put any items in that book after that time, in this day book? A. No sir, then that was laid aside and a new one took its place.

Q In other words this book was filled up in July, 1902?
A Yes sir.
Q And the item from which you read was on page 102, and there are 65 more pages in this book filled up with different items along?
A Yes sir.
Q Running along as far as July, 1902? A. Yes sir.

W I T N E S S E X C U S E D .

MIKE MARTIN, being first duly sworn, testified as follows:

BY MR. BLEDSOE:
Q What is your name? A. Mike Martin.
Q How old are you? A. 40 years old
Q Where do you live? A. Close to Chelsea.
Q How long have you lived there? A. About 20 more of years
Q What relation to you was Aaron Martin? A. My father
Q Is Aaron Martin living or dead? A. He is dead
Q Do you know when he died? A. No sir, not exactly, no more than the record those fellows give me up there at Vinita, that is all I know about it, he was just dead one week when I went and got my guardian papers.
Q How do you know or what makes you form that conclusion , that he died just a week before these papers were gotten up? A. In 3 days after he died I went to Vinita and I says now Mr. Wilson my father is dead, now what can be done about it, and he says you had better come up and get out guardian papers, so all the money owing to him, you can collect it, so I says I will come back right away and I come back right away, and if my memory serves me right he died on Thursday so I come back on the next Thursday and got these papers out, and he says now all the moneys owing to him you can get it of the folks owes you, ant at the same time Mr. Elliott was owing him $100.00 so Mr. Elliott paid that all right, that is all I know about it, if these papers is right that there man is wrong, if these papers is wrong that there man is right, that is all I know about it. I just give you the truth.
Q Did you hire this man Reeder to make the coffin? A Yes sir
Q Do you recollect about paying him for the coffin? A. I paid him I guess in about a month after he made the coffin
Q You paid for the coffin yourself? A. Yes sir.
Q Have you got his receipts at home? A. No sir
Q Did you take any receipts at all? A. No sir
Q Have you any other proof besides this in regard to the death of your father? A. There are several people known that he was just dead one week when I got these papers out. Now I have one of my bondsmen, that is Chris Clos. He was one of my bondsmen.
Q Who was there when your father died? A. John Mumbles and all of their boys and his other children, and I think there was several of them, I don't know who all was there. Now that is all I know, that is all I have got to go by at all.

Q Could you get those people before the Commission? A. I aint got no money and they want come unless I pay the way, I aint got no money to pay them.

BY MR. HASTINGS:

Q How much did you pay Mr. Reeder on it, when you got that coffin?
A No sir, not a cent.
Q Did you pay him the next day? A . No sir, it was quite a little while
Q How long before you paid him? A. Probably it might have been a month and probably not so much .
Q How much did you pay him for the coffin? A. I think, if I mistake not, I paid him $13.00
Q $13.00? A. Yes,sir.
Q Who was your doctor that waited on your father? A. Dr. J. W. Bowman.
Q You wouldn't swear the other day whether it was spring, summer fall or winter? A. No sir
Q You wouldn't swear the year he died? A. No sir, nor I wond do it yet.
Q Don't know anything about the month of it? A. No sir, all I am going by is this paper.
Q But you did get the coffin from this same man that was on the stand here? A. Yes sir
Q You are the Mike Martin to whom he referred? A. Yes sir
Q And you are the son of this Aaron Martin? A. Yes sir
Q And your father was stooped over and it required an unusual coffin for him? A. Yes sir.

BY MR. BLEDSOE:
Q Did Dr. Bowman attend on your father? A. Yes sir
Q Will you get his statement and send it to the Commission or to me? A. Yes sir.

Mr. Hastings: I desire to call the attention of the Agent for the applicant to the fact that Dr. J. W. Bowman's sworn statement is on file in connection with these papers, and that he swears that he attended on this said Aaron Martin and he also swears that Aaron Martin died on March 7, 1902. I now ask him if he is willing to accept that statement.

Mr. Bledsoe, to witness: If the Doctor swears that he died in March in this record here Mike, that is conclusive proof that he died at that time? Witness: That is all I know about it.

Mr. Hastings: The Cherokee Nation made every effort to get Dr. J. W. Bowman present to testify before the Commissioner in this case the last Thursday, as well on this Thursday, but it has no way of compelling his attendance and in reply to our letters stated that he could not be here today. I desire to state this for the purpose of showing that we had made an effort to have him in attendance.

The Agent for the applicant and the Attorneys for the

Cherokee Freedmen --1294--#6

Cherokee Nation announce that they have no further evidence to introduce in this case, this case will be closed and a decision rendered on the evidence heretofore introduced. ?

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George H. Lessley, being first duly sworn , states that as stenographer to the Commissioner to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 7th day of October, 1905.

Myron White

Notary Public

C753

COPY.

Cherokee Freedman 1294

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Aaron Martin, an applicant for Cherokee freedman citizenship .

FINDING OF FACT.

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, on May 10, 1901, Aaron Martin appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a Cherokee Freedman; that on September 5, 1903, the Commission to the Five Civilized Tribes rendered its decision granting said applicant the right to enrollment as a Cherokee freedman, and that on April 4, 1904 (I.T.D. 836-1904), said decision was duly affirmed by the Department.

The records further show that at Tahlequah, Indian Territory, on July 12, 1905, Mike Martin, son of the said Aaron Martin appeared before this office and, for the purpose of making a selection of an allotment of land in the Cherokee Nation for the said Aaron Martin, made affidavit that the said Aaron Martin died on or about the eighteenth day of September, 1902. Further proceedings in the matter of the death of the said Aaron Martin were had at Muskogee, Indian Territory, on September 28 and October 5, 1905.

MIKE MARTIN, on September 28, 1905, appeared before this office and testified as follows: My name is Mike Martin. I am 40 years old and my postoffice address is Chelsea. My father's name is Aaron Martin. He is dead. I can not tell you what time of the year he died; I don't kno whether he died in the summer or winter, spring or fall. I don't know how many years ago he died, probably it may have been two, or three years. I made affidavit as to the time of his death and told them at that time that he died one week before certain Letters of Guardianship were made out. If there is anything wrong in it the man that made those papers out is the one that made it wrong. I cannot read or write. I don't know one letter from another.

WILLIAM A. REEDER, on October 5, 1905, appeared before this office at Muskogee, Indian Territory, and testified as follows: My name is William A. Reeder. I am 43 years of age and my post-office is Chelsea, Indian Territory. My business is running a blacksmith and repair shop, and wood-work in connection with it. I make coffins quite often. I am acquainted with the witness, Mike Martin, and I knew his father, Aaron Martin. I made a coffin for Mike Martin for his father, Aaron Martin. I have books here that indicate the time that this coffin was made. It was made on March 7, 1902. I remember it very distinctly because it was out of the ordinary. He was crippled with rheumatism and I had to make it three feet deep. I think it was 3x6-4. It was the largest one I ever made. Mike Martin paid $2.50 cash. I did not see Aaron Martin die, but I am certain that it was on March 7, 1902, that Mike Martin got the coffin.

In view of the foregoing testimony, and affidavit filed with and made a part of the record in this case, I am of the opinion that Aaron Martin died prior to September 1, 1902, and so hold.

(SIGNED). Tams Bixby.
Commissioner

Dated at Muskogee, Indian Territory

this AUG 15 1906

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Aaron Martin,

Chelsea, I.T.
Cherokee F-D-235
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY

Cherokee F. D-220
et al.

Muskogee , Indian Territory, September 9,1903

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 9,1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper, as Cherokee freedmen and dismissing the applications for the enrollment of George Johnson, and Eliza and Annie Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John W. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDOX,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

Cherokee Freedmen
D-235.

Muskogee, Indian Territory, September 30, 1903

Aaron Martin,

Chelsea, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for enrollment as a Cherokee freedman, together with a copy of the Commission's decision dated September 5, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Chairman.

Register.
Enc. D-85

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Lellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM

(Signed) A. C. Tonner.

5 enclosures.

Acting Commissioner.

D .C. 10862-1904

(C O P Y)

Y.P.
WHR

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

TD 836-1904
E.R.S.

April 4, 1904

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully
(Signed) THOS RYAN
Acting Secretary

1 inclosure.

Cherokee Freedmen
D-235.

Muskogee, Indian Territory, April 18, 1904.

Aaron Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Bery and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
[redacted]1294

COPY.

Muskogee, Indian Territory, August 26, 1905

Chief Clerk,

Cherokee Land Office,

Tahlequah, Indian Territory.

Dear Sir:

You are requested to advise this office whether or not an allotment of land in the Cherokee Nation has been selected for Aaron Martin, deceased, whose name appears on Cherokee Freedman card field No. 1294, opposite final roll number 3572. You are also requested to advise whether or not the records of the Cherokee Land Office show that an administrator has been appointed for his estate, and if so, the name and postoffice address of the administrator.

Respectfully,

SIGNED.

Tams Bixby.

Commissioner

Cherokee
F-1294.

Muskogee, Indian Territory, September 12, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that on Thursday, September 14, 1905, at nine o'clock A. M., you will be given an opportunity to introd ce such testimony as you desire in support of your motion to have reopened the Cherokee freedman enrollment case of Aaron Martin tending to show whether or not he died prior to September 1, 1902.

Respectfully,

Wm. O. Beall
Acting Commissioner.

GHL

Cherokee
F-1294.

Muskogee, Indian Territory, September 12, 1905.

Mike Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that a motion has been made by the Attorneys for the Cherokee Nation to have reopened the cherokee freedman enrollment case of your father, Aaron Martin, alleging that he died prior to September 1, 1902. A copy of said motion is inclosed herewith.

The Attorneys for the Cherokee Nation have this day been notified that they will be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M., on Thursday, September 14, 1905, and introduce such testimony as they desire in support of the allegations contained in their motion. You will also be permitted to appear on that date and introduce such testimony as you desire in rebuttal.

Respectfully,

Wm O Beall
Acting Commissioner.

Incl. GL-277.
GHL

COPY.

Muskogee, Indian Territory, August 15, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the application of Aaron Martin for enrollment as a Cherokee freedman, together with the opinion of the Commissioner to the Five Civilized Tribes, dated August 15, 1906, holding that said Aaron Martin died prior to September 1, 1902.

Aaron Martin appeared before the Commission to the Five Civilized Tribes at Vinita, Indian Territory, on May 10, 1901, and made application for enrollment as a Cherokee freedman, and his name is included in a schedule of Cherokee freedmen approved by the Secretary of the Interior November 16, 1904, opposite No. 3572. On July 14, 1905, there was received by the Commissioner an affidavit executed by Mike Martin, son of Aaron Martin, as to the death of his father about September 18, 1902. On September 28, 1905, said Mike Martin appeared before

the Commissioner and gave his testimony in connection with the date of the death of Aaron Martin, and on October 5, 1905, after due notice to all parties at interest, a further hearing was had in the case, and from the testimony introduced it seems to be conclusively shown that said Aaron Martin died prior to September 1, 1902.

On July 13, 1905, at the request of Mike Martin, the Commissioner designated certain land as an allotment in the Cherokee Nation for Aaron Martin, but no final allotment of the land designated has been made.

It is respectfully recommended that the name of Aaron Martin be stricken from the copies of the approved Cherokee freedmen roll opposite No. 3572, retained in the Department and in the Office of the Commissioner of Indian Affairs; that this office be authorized to strike his name from the copies of said roll returned to it, and that the application for his enrollment as a Cherokee freedman be dismissed.

Respectfully,

(SIGNED):

Tams Bixby.

Commissioner.

Incl. G-1
LC

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen

No. 1294.

COPY.

Muskogee, Indian Territory, August 15, 1906.

Mike Martin,

Chelsea, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the opinion of the Commissioner to the Five Civilized Tribes, dated August 15, 1906, holding that your father, Aaron Martin, died prior to September 1, 1902.

You are advised that the record of proceedings had in the matter of his application for enrollment as a Cherokee freedman, together with the Commissioner's opinion, has this day been forwarded to the Secretary of the Interior with the recommendation that his name be stricken from the approved partial roll of Cherokee freedmen, and that the application for his enrollment as a Cherokee freedman be dismissed.

Respectfully,

(SIGNED).

Tams Bixby.

Commissioner.

Incl. S-2
LS
Register

Cherokee F.
NO. 1294.

COPY.

Muskogee, Indian Territory, August 15, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the opinion of the Commissioner to the Five Civilized Tribes, dated August 15, 1906, holding that Aaron Martin died prior to September 1, 1902.

You are advised that the record of proceedings had in the matter of the application of Aaron Martin for enrollment as a Cherokee freedman, together with the Commissioner's opinion, has this day been forwarded to the Secretary of the Interior with the recommendation that his name be stricken from the approved partial roll of Cherokee freedmen, and that the application for his enrollment as a Cherokee freedman be dismissed.

Respectfully,

(SIGNED):

Tams Bixby.

Commissioner.

Incl. S-3
LS

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of t e Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applica ions for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in r reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citi zens of the Cherokee Nation, in accordance with the Department's ruling in the Harry still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the a plicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee By blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the witer of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905(Land 38933-1905), and affirmed by the Department August 5, 1905(I.T.D. 7076-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Organ, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Alice Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

L M B

Commissioner

Land.
71622-1906.
D.C. 2559-1906.

DEPARTMENT OF THE INTERIOR, (C O P Y)
OFFICE OF INDIAN AFFAIRS,
WASHINGTON/ December 8, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed letter of the Commissioner to the Five Civilized Tribes, in the matter of the death of Aaron Martin, an applicant for enrollment as a Cherokee freedman, wherein a decision was rendered by the Commissioner on August 15, 1906.

The Commissioner reports that the records of his office show that on May 10, 1901, Aaron Martin appeared before the Commission to the Five Civilized Tribes at Vinita, and made application for enrollment as a freedman of the Cherokee Nation; that on September 5, 1905, the Commission rendered a decision granting him the right to enrollment as a Cherokee freedman, and on April 4, 1904 (I.T.D. 836-1904), the decision was affirmed by the Department.

He further finds from the records that on July 12, 1905, Mike Martin, son of Aaron Martin, appeared before his office at Tahlequah for the purpose of making a selection of an allotment of land in the Cherokee Nation for Aaron Martin, and made

an affidavit that Aaron Martin died on or about the 18th day of September 1902, and that further proceedings were had in the matter at Muskogee on September 28 and October 5, 1905.

The Commissioner reports that on September 28, 1905, Mike Martin appeared before his office and testified that he was 40 years old, that his post office address was Chelsea, that his father's name was Aaron Martin, and that he is dead, but he could not tell what time of the year he died, not remembering whether he died in the Summer or winter, spring or fall, nor how many years previous it was, saying it might have been two or it might have been three years, that he made affidavit as to the time of his father's death, declaring therein that Aaron Martin died one week before certain letters of guardianship were made out and that if there is anything wrong in them the man who made the papers out made them wrong, that he cannot read or write and does not know one letter from another.

The Commissioner also reports that William A. Reeder appeared before his office at Muskogee on October 5, 1905, and testified as follows:

> My name is William A. reeder. I am 43 years of age and my postoffice is Chelsea, Indian Territory. My business is running a blacksmith and repair shop, and woodwork in connection with it. I make coffins quite often. I am acquainted with the witness, Mike Martin, and I knew his father, Aaron Martin. I have books here that indicate the time this coffin was made. It was made on March 7, 1902. I remember it very distinctly because it was out of the ordinary. He was crippled with rheumatism and I had to make it three feet deep. It was 3x6-4. It was the largest one I ever made. Mike Martin paid $2.50 cash. I did not see Aaron Martin die, but I am certain that it was on March 7, 1902, that Mike Martin got the coffin.

In view of the record as presented by him, Commissioner Bixby says he is of opinion that Aaron Martin died prior to September 1, 1902, and so held.

An examnination of the record shows that on two different occasions Mike Martin testified that his father died a week before he himself took out guardianship papers for the children of Aaron Martin, and that these guardianship papers were issued on September 25, 1902. He has no other means of identifying the date of his father's death except that the death occured during cold weather.

William A. Reeder, who made the coffin for Aaron Martin, at the instance of Mike Martin, testified that his book on which the record of the transaction was made showed that the death of Aaron Martin occured on March 7 1902, and Dr. J.W. Bone made an affidavit to the effect that he attended Aaron Martin in his last illness and that he died on March 7, 1902.

The testimony of Reeder and Bone outweighs the testimony o f Mike Martin as to the date of the death of Aaron Martin, and it being therefore established that Aaron Martin died before September 1 1902, it necessarily follows that his heirs are not entitled to take an allotment on his account. For this reason I recommend that the finding of the Commissioner be approved.

I further recommend that the name of Aaron Martin as it appears on the Cherokee freedman roll apposite No. 3572, be stricken from the copies of the approved Cherokee freedman roll in the Department, and in this Office, and that the Com-

missioner be authorized to strike his name from the copies of the roll in his possession and that the application for his enrollment as a Cherokee freedman be dismissed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EBH-Y

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D.24818-1906.
D.C.2559-1907.
L.R.S.

January 9, 1907.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On August 15, 1906, you transmitted the record in the matter of the application of Aaron Martin for enrollment as a Cherokee freedman, together with your decision dated August 15, 1906, holding that said Aaron Martin died prior to September 1, 1902.

The record shows that the name of Aaron Martin is included in a schedule of Cherokee freedman, opposite No. 3572, approved by the Secretary of the Interior November 16, 1904.

You consider it conclusively shown that Aaron Martin died prior to September 1, 1902, and you recommend that his name be stricken from the copies of the approved Cherokee freedman roll and that his application for enrollment as a Cherokee freedman be dismissed.

Reporting December 8, 1906, the Indian Office concurs in your recommendation. A copy of its letter is inclosed.

The Department considers your decision correct. Departmental decision of April 4, 1904, is hereby rescinded and the application for the enrollment of Aaron Martin as a Cherokee freedman is hereby

dismissed.

The Department has this day canceled the name of said Aaron Martin from the approved Cherokee freedman roll, opposite No. 3572, retained in the Department, has requested the Commissioner of Indian Affairs to take the same action upon the copy retained in his office, and you are hereby authorized to cancel said name from the copy of said roll in your possession.

Respectfully,

(Signed) Thos. Tyan.

First Assistant Secretary.

1 inclosure.

Cherokee F.
1294.

Muskogee, Indian Territory, January 18, 1907.

Michael Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated August 15, 1906, dismissing the application for the enrollment of your father as a Cherokee freedmen was affirmed by the Secretary of the Interior, January 9, 1907. For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl.HJ-48.
HJC

Commissioner.

Cherokee
1294

Muskogee, Indian Territory, January 18, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated August 15, 1906, dismissing the application for the enrollment of Aaron Martin was affirmed by the Secretary of the Interior January 9, 1907. For your information there is enclosed herewith a copy of Departmental decision referred.

Respectfully,

Encl.HJ-47
HJC

Commissioner.

COPY.

Land
106486-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the Department September 16, 1904, opposite Nos. 3539 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the Attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee Commission on Citizenship in September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War: that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Albery has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

--Copy-- JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby,

Commissioner.

Encl.M-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review andreject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907. GAW

DEPARTMENT OF THE INTERIOR,

I.T. 47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee
F 1261 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.V.

Acting Commissioner.

Cher Fr 1295

See Cher Fr 1294-6-7-9-1300-1

Cher Fr 1295

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 10, 1901.

In the matter of the application of Michael Martin for enrollment as a CherokeeFreedman; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Michael Martin.
Q What is your postoffice? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q What is your age? A About 34 years old.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A Just myself.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know sir, it ought to be.
Q What is your father's name? A Aaron Martin.
Q What is the name of your mother? A Queen Martin.
Q Is she living? A She is dead.
Q Was she a citizen? A Yes sir.
Q Is her name on the roll of 1880? A No sir, I don't think it is.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the names of the applicant and his parents are not identified thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the name of the applicant is found on page 118, No. 2942, Michael Martin, Deaware District.

Q Were you a born slave? A No sir.
Q Born after the war, were you? A Yes sir.
Q Do you know the reason why your name is not on the roll of 1880? A No sir, I don't.
Q You always lived in the Cherokee Nation? A Yes sir, always.
Q You always drew money in the Cherokee Nation? A I drawed money twice.
Q Under the Wallace Roll? A Yes sir.
Q Did you ever vote in the Cherokee Nation? A Yes sir'
Q Did you ever have any law suits in the Cherokee Nation? A No sir.
Q You don't know whether you have been recognized as a Cherokee citizen by the courts or not? A No sir.

Michael Martin applies for the enrollment of himself as a Cherokee Freedman. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896, but his name is found upon the Kerns Clifton Roll. His citizenship depends upon the evidence and the decision in the case of Aaron Martin, his father. Reference is made to the testimony taken in the application of his father, Aaron Martin, D-Card 235; said testimony will be made a part of the record in the case at bar.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribws, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

S. C. Montenegro

Subscribed and sworn to before me this 11th day of May, 1901.

Commissioner.

M D Green
Notary, Ark

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 20 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 10 1901

Post Office Chelsea I.T.

District Coo

1. Name Michael Martin Age 34

Owner's name Citizenship

Year 1896 Page 118 No. 2943 District Del

Parents:

Father Aaron Martin - living Citizenship

Mother Queen " - dead Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children: Doubtful

3. Year Page No. Dist.

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by Mr. I Stenographer C. G. Rothenberger

Neg D 255

To be filed in case of Michael Martin.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Aaron Martin.
Q How old are you, Aaron? A I guess about 67 or 68.
Q What is your postoffice address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

Q Did you receive your money known as the Cherokee Strip money? A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the name of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

Q Aaron, were you ~~slave~~ before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866? A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Gap Hicks, and Andrew Frey.
W. H. Hastings: Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
Q Are you a blacksmith? A No sir.
Q Another Martin is a blacksmith? A Yes sir.
Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cockrum was living at Johnson's Thompson's place when I got back.
Q How long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Gap Hicks'

mother then.
Q About what time did you come down to the Cherokee Nation after the war - what time in '66? A It was some time in the fall.
Q You have lived there ever since? A Yes sir.

Andrew Frey, being sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:
Q Is your name Andrew Frey? A Yes sir.
Q How old are you? A 66.
Q What is your postoffice? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Freedman? A Yes sir.
Q Do you know Aaron Martin? A Yes sir.
Q How long have you known him? A Why I don't know, sir, just exactly how long, ever since we were boys.
Q Was he a slave? A Yes sir.
Q To whom did he belong? A He belonged to John Martin.
Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
Q Where? A He was over here across the river part of the year 1866.
Q In the Cherokee Nation? A Yes sir.
Q Did he go out of the Cherokee Nation during the war? A Yes sir.
Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
Q Did he return? A Yes sir.
Q In what year? A In '66.
Q Are you any relation to him? A No sir.
Q Was he married at that time? A Yes sir.
Q Was his family with him? A Yes sir.
Q Did his family return with him? A Yes sir.
Q Were you a slave? A Yes sir.
Q To whom did you belong? A I belonged to Mary Clark.
Q Were you in Kansas with Aaron Martin? A Yes sir.
Q Did you return with him? A Yes sir.
Q Have you known Aaron Martin well since that time? A Yes sir.
Q Has he lived in the Cherokee Nation since? A Yes, sir.
W. W. Hastings: You say he come back with you? A Yes sir.
Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a big crowd of us.
Q Well, name some of the rest of them? A Peter Williams.
Q Anybody else? A Tobe Schrimsher, Jake Martin's family.
Q Anybody else? A I don't know who else.
Q That is all you can remember? A Yes sir.
Q What time in the year did he come back? A He come back - we got back over to Dr. Thompson's place the 3rd of October, '66.
Q Any colored folks there when you got there? A No one at all.
Q You are positive about that, are you? A Yes sir, no one at all there.
Q What was in October, '66? A Yes sir.
L. B. Bell: Who got back there first, you or Judge Daniels' family?
Q Me.

Filmore Hicks, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:
Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your postoffice address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of '66.
Q Where at? A At my mother's.

Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir.
Q Did he have a family at that time? A Yes, sir.
Q Was his family with him? A Yes sir; they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
W. W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67? A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
Commissioner of Applicant: Did you draw money for Frances and Neely? A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:
Page 23, No. 568, Frances Adams, Delaware District.
Page 23, No. 569, Nealey Adams, Delaware District.

Q Are their names Adams or Martin? A Martin is theirname.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all alive and living with you at this time? A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

Aaron Martin applies for the enrollment of himself and three children, Frances, Neely and Phoebe. His name is not found upon the authenticated roll of 1880, but is found upon the Kerns Clifton Roll. By reason of the fact that his name is not found upon the roll of 1880, and his citizenship is contested by the Cherokee Nation, his name will be placed upon a doubtful card. When the Commission arrives at a decision in his case, he will be notified by mail. He avers that his children, Frances, Neely and Phoebe, are the children of Cora Adams, his wife, and the name of Cora Adam is found upon the authenticated roll of 1880, and Frances and Neely are identified on the Kerns Clifton Roll. The name of Phoebe is not found upon any roll, having been born after the said rolls were compiled. They are all duly identified and make satisfactory proof as to residence, consequently, Frances, Neely, and Phoebe Martin will be duly listed for enrollment as Cherokee Freedmen. Their names appear upon the Kerns Clifton Roll as Adams, but they are duly identified as the applicants. In order to complete the enrollment of Phoebe, it will be necessary for him to file with the Commission satisfactory proof of birth of said Phoebe.

4- A. M.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. J. Stephenson

Subscribed and sworn to before me this 11th day of May, 1901.

C. R. Wickliffe
Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Eliza Gaines, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines,	Cherokee Freedmen	D 220
Jane Webb,	Cherokee Freedmen	D 221
Mary Mabry, et al.,	Cherokee Freedmen	D 222
Berry Thompson, et al.,	Cherokee Freedmen	D 223
Julia Nash,	Cherokee Freedmen	D 224
Georgia Jones, et al.,	Cherokee Freedmen	D 225
John H. Nash, et al.,	Cherokee Freedmen	D 226
Malinda Johnson, et al.,	Cherokee Freedmen	D 227
Eliza Grooms, et al.,	Cherokee Freedmen	D 228
Berry Nash,	Cherokee Freedmen	D 229
Edward Nash,	Cherokee Freedmen	D 230
Carrie Harris, et al.,	Cherokee Freedmen	D 231
Ella Humes,	Cherokee Freedmen	D 232
Aaron Martin,	Cherokee Freedmen	D 235
Michael Martin,	Cherokee Freedmen	D 236
George Martin, et al.,	Cherokee Freedmen	D 237
Joshua Martin,	Cherokee Freedmen	D 238
Edward Brown, et al.,	Cherokee Freedmen	D 247
Israel Martin et al.,	Cherokee Freedmen	D 307
Nellie Brown, et al.,	Cherokee Freedmen	D 319
Harriett Tucker, et al.,	Cherokee Freedmen	D 697
Lydia Carter,	Cherokee Freedmen	D 716
Allie McElroy, et al.,	Cherokee Freedmen	D 717
Robert Harper,	Cherokee Freedmen	D 718
Jordon Harper,	Cherokee Freedmen	D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb, for herself; by Eliza Gaines, for her daughter Mary Mabry; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Leo and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Belle, Eva, Annie,

Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were filed with the Commission showing the birth of George and Julia Johnson; by Eliza Grooms, for herself and minor children, Martha, Dona, Peter W., Leuretha and Ennis Grooms; by Berry Nash, for himself; by Edward Nash, for himself; by Carrie Harris for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Humes, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lottie Martin, by Nellie Brown, for herself and minor children, Roxie, Moses, Jennie, William and Michael Brown; by Harriett Tucker, for herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah M. Tucker; by Lydia Carter, for herself; by Allie McElroy, for herself and minor child, Etta Taylor; by Robert Harper, for himself; and by Jordon Harper, for himself.

The evidence shows that Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein, and that all the other applicants in these several cases have been born since 1866, and, with the exception of Ella Humes and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Humes is the daughter of Rosa Mango, sister of Eliza Gaines, one of said principal applicants, and, claims right to enrollment through her; that the said Rosa Mango was the slave of a Cherokee citizen at the commencement of the rebellion and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin is duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears from affidavits, made a part of the record herein, that the applicant George Johnson died in January, 1902; that the applicant Eliza Grooms died in October, 1901; and that the applicant Ennis Grooms died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902 (32 Stats., 716), provides:

> "The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, as Cherokee Freedmen, be and the same are hereby dismissed.

COMMISSION TO THEFIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,
this SEP 5 1906

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Michael Martin,

Chelsea, I.T.
Cherokee F-D-236
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee N.D-220
etal.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Melinda, Lottie, Lizzie, Belle, Ava, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Numes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Crooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. 1-6

COPY

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30,1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No.2

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

F. B. Needles.

Chairman.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

Cherokee Freedman
D-220 et al.

Muskogee, Indian Territory, September 30,1903.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Luretha Grooms,Berry, and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings,

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No.2

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Chairman.

Register.

Enc. D-96.

Cherokee Fr. D236

Muskogee, Indian Territory, September 30,1903.

Michael Martin,

Chelsea, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for enrollment as a Cherokee Freedman, together with a copy of the Commission's decision, dated September 5th, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Chairman.

Register.

Enc. D-100.

Refer in reply to
the following:
LAND
63872-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Lellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah ... Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Hunes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Hunes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Brooks, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrant the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

(Signed) A. C. Tonner.

Acting Commissioner.

GAW/LM

5 enclosures.

D C 10862-1904.
ITD 833-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John M. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-236.

Muskogee, Indian Territory, April 18, 1904.

Michael Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-230 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 3, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Grooms, Mary and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah E. Tucker, Glen Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Annie Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
D-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lettie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Brown, [illegible]
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 15, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in r reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3672, died prior to September 1, 1902, and the record of proceedings had in the case, together with the commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 26, 1902, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the whter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian office June 21, 1905(Land 38933-1905), and affirmed by the Department August 5, 1905(I.T.D. 7 76-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicant.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7656-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 16372-1906), in the case of [illegible] Blair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M B

Commissioner

COPY.

Land
106486-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the Department September 16, 1904, opposite Nos. 3580 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee Commission on citizenship in September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Hill and John Morgan Cherokee freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll No. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War: that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Albery has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Gaines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

--Copy-- JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1298

COPY

Muskogee, Indian Territory, March 7, 1907.

Michael Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby.

JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl.H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby,

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Tayler	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27857-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T. 47948-1907. OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1295

Muskogee, Indian Territory, June 8, 1907.

Michael Martin,

Chelsea, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-14.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1296

See Cher Fr 1294-5-7-9-1300-1

Cher Fr 1296

The undersigned, being duly sworn, states that he stenographically reported the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 11th day of Jan., 1907.

Commissioner.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 10, 1901.

In the matter of the application of George Martin for the enrollment of himself, his wife, Alice Martin, and his four children as CherokeeFreedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A George Martin.
Q How old are you? A I am about 38 years old.
Q What is your postoffice address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A My wife and four children.
Q What is the name of your wife? A Alice Martin.
Q How old is she? A She is about 36.
Q What was her father's name? A Gesso Alberty.
Q Is he living? A No sir, he is dead.
Q What was her mother's name? A Jane Alberty.
Q Is she living? A No sir, she is dead.
Q Is your wife a recognized citizen of the Cherokee Nation? A Yes sir, I guess so.
Q What are the names of your children? A Martha.
Q How old is Martha? A She is about 11 years old.
~~Q What are the names of your children? A Martha~~
~~Q How old is Martha? A She is about~~
Q The name of the next child? A Clifton.
Q How old is Clifton? A Clifton is about 5 years old.
Q The next one? A Ethel.
Q How old is Ethel? A Ethel is about three.
Q The next one? A Jane, one year old.
Q These children all living at this time? A Yes sir.
Q Who was the mother of Martha? A Alice.
Q Is Alice the mother of all these children? A Yes sir.
Q Where were you born, Mr. Martin? A Born in the Cherokee Nation, they say.
Q Were you born a slave? A Yes sir, they say so.
Q Who did you belong to? A John Martin.
Q What is your father's name? A Aaron Martin.
Q What was your mother's name? A Queen Martin.
Q Is Aaron Martin living? A Yes sir.
Q Queen Martin is dead? A Yes sir, she is dead.
Q Your father went out of the Cherokee Nation during the war, did he? A Yes sir.
Q Did he take you with him? A Yes sir, he said so.
Q Is your understanding, that when your father returned he brought you with him? A Yes sir.
Q You lived in the Cherokee Nation ever since? A Yes sir.
Q These children, Martha, Clifton, Ethel and Jane living at this time? A Yes sir.
Q Do you know whether your name is on the roll of 1880 or not? A No sir, I don't.
Q Is your wife's name? A No sir, I don't think it is. It might be.
Q When were you married to Alice Martin? A Its been about 13 years I guess.
Q Who married you? A Elder Young.
Q Is he living? A Yes sir.
Q Have you got a certificate of marriage? A No sir.
Q You know him do you? A Yes sir.
Q You know where he lives? A Yes sir.
Q What district would your wife be in 1880? A She lived in Cooweescoowee.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the names of the applicants, and that of their parents, are not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

Q Is your wife's mother alive? A No sir, she is dead.
W. W. Hastings: When did she die? A Well, I don't know.
Commission:

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the name of the applicant is found on page 118, No. 2941, George Martin, Delaware District.
The Kerns Clifton Roll examined for applicant's wife and her name cannot be identified thereon.

Q Did you draw strip money for your wife? A No sir.
Q They wouldn't pay it, would they? A No sir.
Q Did you draw for the children? A I drew for one.
Q Who drew for that? A I drawed for that.
Q Is Aaron Martin her grandfather? A Yes sir.

The Kerns Clifton Roll examined for applicant's child, Martha, and her name is found on page 118, No. 2940, Martha Martin, Delaware District.

Q You always lived in the Cherokee Nation? A Yes sir.
Q These children all living? A Yes sir.
Q Your wife ? A Yes sir.

L. D. Daniels, being sworn and examined by Commissioner T.B. Needles, testified as follows:
Q What is your name? A L. D. Daniels.
Q Your age? A 56.
Q What is your postoffice? A Claremore.
Q Do you know Gesso Alberty? A Yes sir.
Q Do you know his wife, Jane? A I knew her.
Q When did they die? A Gesso got drowned in the spring of '76.
Q Well, when did Janedie, his wife? A To the best of my knowledge it was in'78 or '9.
Q Do you know whether they were Cherokee Freedmen ornot? A Yes sir.
Q They were both slaves, were they? A I think so; they went by the name of Alberty; that is Gesso did.

George Martin applies for the enrollment of himself,his wife, Alice, and ~~three~~ children, Martha, Clifton, Ethel and Jane. Upon examination of the authenticated roll of 1880 the name of George Martin is not found, but his name is found upon the Kerns Clifton Roll. Reference is made to the testimony taken in the case of his father, Aaron Martin, D-Card 335; said testimony will be made a part of the record in this case and filed. The name of his wife, Alice, cannot be found upon the authenticated roll of 1880 or the Kerns Clifton Roll. The name of his one child, Martha, is found upon the Kerns Clifton Roll. The names of his three children, Clifton, Ethel and Jane cannot be identified upon any roll. It is averred that his wife, Alice, is the daughter of Gesso and Jane Alberty. The testimony shows that Gesso and Jane Alberty both died before 1880. Indications are that they were Cherokee Freedmen. The name of Alice cannot be found upon the authenticated roll of 1880 or the Kerns Clifton Roll, but upon the roll of 1880 is found on page 63, No. 119, Jane Alberty, Cooweescoowee District, and a child, page 63, No. 120, Alberty, (Child), Cooweescoowee District. There is some doubt as to whether the Jane and the Child Alberty mentioned are intended for the mother of the applicant, Alice, and for Alice herself. Applicant avers that he was married to Alice Alberty, the child of Jane Alberty, by one Elder Young, but presents no certificate of marriage, consequently the name of George Martin, his wife, Alice, and his children as enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card, awaiting further information and consideration by the Commission. It will be necessary for him to file with the Commission satisfactory proof of

births as to Clifton, Ethel and Jane, his children, and also certificate of marriage between himself and his wife, Alice.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. Rothenberger.

Subscribed and sworn to before me this 11th day of May, 1901.

Commissioner.

M D Green
Notary Pub

B. J. 9, 237

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 10, 1901

Post Office Chelsea I.T.

District Coo

1. Name George Martin Age 38

Owner's name Jas. Martin Citizenship

Year R.C. Page 118 No. 2941 District Del

Parents:

Father Aaron Martin - living Citizenship

Mother Susan " - dead Citizenship

2. Name of wife Alice Martin Age 26

Owner's name Citizenship

Year — Page — No. — District —

Parents:

Father Guess Alberty - dead Citizenship

Mother Jane " - dead Citizenship

Names of Children:

3.	Martha	Martin	Year RC	Page 118	No. 2940	Dist. Del	11
4.	Clifton	"	Year —	Page —	No. —	Dist. —	5
5.	Ethel	"	Year —	Page —	No. —	Dist. —	3
6.	Jane	"	Year —	Page —	No. —	Dist. —	1
7.			Year	Page	No.	Dist.	
8.			Year	Page	No.	Dist.	
9.			Year	Page	No.	Dist.	
10.			Year	Page	No.	Dist.	
11.			Year	Page	No.	Dist.	
12.			Year	Page	No.	Dist.	

Application made by No. 1 Stenographer E L Rothenberger

No. 4, 5 and 6 affidavits of birth required.

Cert. of marriage to be supplied

Alex Dazey

The undersigned, being duly sworn, states that a stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 4th day of May, 1901.

Commissioner.

To be filed in case of George Martin et al.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified a follows:

Q What is your name? A Aaron Martin.
Q How old are you, Aaron? A I guess about 67 or so.
Q What is your postoffice address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee,Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I,think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.
The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

Q Did you receive your money known as the Cherokee Strip money? A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the name of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

Q Aaron, were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866? A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Cap Hicks, and Andrew Frey.
W. W. Hastings: Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
Q Are you a blacksmith? A No sir.
Q Another Martin is a blacksmith? A Yes sir.
Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
Q How,long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks'

mother then.
Q About what time did you come down to the Cherokee Nation after the war - what time in '66? A It was some time in the fall.
Q You have lived there ever since? A Yes sir.

Andrew Frey, being sworn and examined by Commissioner T.B. Needles, on part of the applicant, testified as follows:
Q Is your name Andrew Frey? A Yes sir.
Q How old are you? A 66.
Q What is your postoffice? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Freedman? A Yes sir.
Q Do you know Aaron Martin? A Yes sir.
Q How long have you known him? A Why I don't know, sir, just exactly how long, ever since we were boys.
Q Was he a slave? A Yes sir.
Q To whom did he belong? A He belonged to John Martin.
Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
Q Where? A He was over here across the river part of the year 1866.
Q In the Cherokee Nation? A Yes sir.
Q Did he go out of the Cherokee Nation during the war? A Yes sir.
Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, allaround in there. He didn't stay at one place long.
Q Did he return? A Yes sir.
Q In what year? A In '66.
Q Are you any relation to him? A No sir.
Q Was he married at that time? A Yes sir.
Q Was his family with him? A Yes sir.
Q Did his family return with him? A Yes sir.
Q Were you a,slave? A Yes sir.
Q To whom did you belong? A I belonged to Mary Clark.
Q Were you in Kansas with Aaron Martin? A Yes sir.
Q Did you return with him? A Yes sir.
Q Have you known Aaron Martin well since that time? A Yes sir.
Q Has he lived in the Cherokee Nation since? A Yes sir.
W. W. Hastings: You say he come back with you? A Yes sir.
Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a bog crowd of us.
Q Well, name some of the rest of them? A Peter Williams.
Q Anybody else? A Tobe Scrimsher, Jake Martin's family.
Q Anybody else? A I don't know who else.
Q That is all you can remember? A Yes sir.
Q What time in the year did he come back? A He come back - we got back over to Dr. Thompson's place the 3rd of October, '66.
Q Any colored folks there when you got there? A No one at all.
Q You are positive about that, are you? A Yes sir, no one at all there.
Q That was in October, 66? A Yes sir.
L. B. Bell: Who got back there first, you or Judge Daniels' family? A Me.

Filmore Hicks, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:
Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your postoffice address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of 166.
Q Where at? A At my mother's.
Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir.

Q Did he have a family at that time? A Yes sir.
Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
W. W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67? A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
Commissioner of Applicant: Did you draw money for Frances and Neely? A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:
Page 23, No. 568, Frances Adams, Delaware District.
Page 23, No. 569, Nealey Adams, Delaware District.

Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all live and living with you at this time? A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

Aaron Martin applies for the enrollment of himself and three children, Frances, Neely, and Phoebe. His name is not found upon the authenticated roll of 1880, but is found upon the Kerns Clifton Roll. By reason of the fact that his name is not found upon the roll of 1880, and his citizenship is contested by the Cherokee Nation, his name will be placed upon a doubtful card. When the Commission arrives at a decision in his case, he will be notified by mail. He avers that his children, Frances, Neely and Phoebe, are the children of Cora Adams, his wife, and the name of Cora Adam is found upon the authenticated roll of 1880, and Frances, and Neely are identified on the Kerns Clifton Roll. The name of Phoebe is not found upon any Roll, having been born after the said rolls were compiled. They are all duly identified and make satisfactory proof as to residence, consequently, Frances, Neely, and Phoebe Martin will be duly listed for enrollment as Cherokee Freedmen. Their names appear upon the Kerns Clifton Roll as Adams, but they are duly identified as the applicants. In order to complete the enrollment of Phoebe, it will be necessary for him to file with the Commission satisfactory proof of birth of said Phoebe.

4- A. M.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 14th day of May, 1901.

C. R. Breidinger

Commissioner.

7D237

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUL 1901
ACTING

DEPARTMENT OF THE INTERIOR,
COMMISSI ON TO THE FIVE CIVILIZED TRI BES,
NOWATA, I.T., JUNE 19th, 1901.

SUPPLEMENTAL TESTIMONY.
F.-D.#237.

In the matter of the application of Alice Mar tin for enrollment as a Cherokee Freedman; said Martin being sworn and examined by Commissioner T. B. Needles, testifi ed as follows:

Q What is your name? A Alice Martin.
Q How old are you, Alic e? A 25.
Q What is your post office address? A Chelsea.
Q Wat distri ct do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, si r
Q Who do you want to enroll besides yourself? A Just me.
Q Are you married A Yes, sir.
Q What is your husband's name? A George Martin.
Q What was your father's name? A Guesso Alberty.
Q What was your mother's name? A Jane AlbertyL
Q Is y our name on the roll of 1880? A I guess so, yes, sir, so said to be.
Q Where were you born, Alice, Cherokee Nation? A Yes, sir; Gooseneck.
Q Been living here all your life? A Yes, sir.
Q Is that y our baby? A Yes, sir.
Q Do you want to enroll it? A It has been enrolled, I done sent t e blanks in.
Q Have you ever been enrolled by this Commission yourself?
A My husband has been in and he took in the children, there is four of the children.
Q Did he enroll you? A No, sir; he asked about me and I think they told him to have me to meet them here.
Q What is that young one's name, Jane? A Yes, sir.

BY MR. W. W. HASTINGS, Cherokee Representative:

Q What was your mother's name? A Jane Alberty.
Q Where were y ou married? A Cooweescoowee, Gooseneck.
Q When did your mother marry? A I don't know, sir, sir, my witness c ann tell you.
Q Who are your witnesses? A Katie Vann.
Q Did you have any sisters or brothers older than yourself?
A I think, I don't know, sir; I think they said there was one child, baby , younger than me.
Q Is there one older than you? A No, sir, I am the oldest child.
Q How old are you? A 25 or 26.
Q Is your mother living? A No, sir.

KATIE VANN, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Katie Vann.
Q How old are you, Katie? A 56.
Q What is your post office? A Tahlequah.
Q You are a recogni zed Freedman citizen of the Cherokee Nation?
A Yes, sir.
Q Do you know Mrs. Martin? A Y s, sir, I know her.
Q What was her father's name? A Guesso Alberty.
Q What was her mother's name A Jane Lasley sometimes called her Wuttie Lasley.
Q How long have you known Alice? A I have known her ever since she was born.
Q Did she have any brothers or sisters? A She had one sister, but it was a child, died when it was a baby.

Supl.f.D.-#237:

Q Then she is the only child living in 1880? A Yes, sir.
Q Do you know whether Alice is on the roll of 1880 or not, her mother? A She ought to be, she was taken, the money was drawed.

BY MR. HASTINGS:

Q What was her mother's father's name? A Her mother's father was named, she belonged to Lasleys.
Q Did you know what her mother's father, her grandfather on her Mothers side? A I knew her mother, Susie Lasley, Lake Lasley's mothe r.
Q Well, Aunt Susie, has been dead sometime? A Yes, sir.
Q Has this woman always been recognized as a citizen up there?
A Yes, sir.
Q Been no disput e about it? A No, sir.
Q Was there any dispute about her mother? A No, sir.

ALICE MARTIN, the applicant, recalled:
BY COM'R NEEDLES:

Q Alice, did you draw strip money, Kern-Clifton money?
A No, sir.
Q Why? A Well, I don't know, I believe thought they said they rejected, I don't know, what it was, my name wasn't on the roll I reckon; I didn't come up an d be enrolled when the other crowd was I guess that was the reason.

KATIE VANN, recalled: BY MR. HASTINGS:

Q Her mother is dead? A Yes, sir.
Q And her mother married Guesso Alberty? A Yes, sir.
Q Is her father dead? A Yes, sir, he got drowned when she was quite small before her mother died.

BY COM'R NEEDLES:

Q You know that she was born and raised in the Cherokee Nati on do you? A Yes, sir.
Q And that her mother was a slave do y ou? A Yes, sir.
Q Was her mother here in 1877? A Oh, yes, living with Jews Vann in Saline.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of appli cant identified thereon page 63, #120, (Child) Alberty, Cooweescoowee Di stri ct.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of applicant 's mother identified thereon, page 63, #119, Jane Alberty, Cooweescoowee District.

COM'R NEEDLES: Upon examination of the records of the Commission it is found that the applicant was enrollmed May 10th, 1901, on Doubtful card #237, as Alice Martin, wife of George Martin. She avers that she is the child of Jane Alberty and the name of Jane Alberty appears upon the authenticated roll of 1880, she is now deceased; and therewith said Jane Alberty is one infant Alberty who is enrolled according to the page and number of the r oll as indicated in the testimony. Upon thorough examination it is the opi nion of the Commission and the representatives of the Cherokee Nation present that the said infant Alberty is intended to be and is identified as the Alice Martin, nee Alberty,

who is enrolled on D. #237. The inference is that the said Alice Martin and all the four children that are enrolled with her on D. #237 should have been enrolled on a straight card.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 1st day of July, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Eliza Gaines, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines,	Cherokee Freedmen	D 220
Jane Webb,	Cherokee Freedmen	D 221
Mary Mabry, et al.,	Cherokee Freedmen	D 222
Berry Thompson, et al.,	Cherokee Freedmen	D 223
Julia Nash,	Cherokee Freedmen	D 224
Georgia Jones, et al.,	Cherokee Freedmen	D 225
John H. Nash, et al.,	Cherokee Freedmen	D 226
Malinda Johnson, et al.,	Cherokee Freedmen	D 227
Eliza Grooms, et al.,	Cherokee Freedmen	D 228
Berry Nash,	Cherokee Freedmen	D 229
Edward Nash,	Cherokee Freedmen	D 230
Carrie Harris, et al.,	Cherokee Freedmen	D 231
Ella Humes,	Cherokee Freedmen	D 232
Aaron Martin,	Cherokee Freedmen	D 235
Michael Martin,	Cherokee Freedmen	D 236
George Martin, et al.,	Cherokee Freedmen	D 237
Joshua Martin,	Cherokee Freedmen	D 238
Edward Brown, et al.,	Cherokee Freedmen	D 247
Israel Martin et al.,	Cherokee Freedmen	D 307
Nellie Brown, et al.,	Cherokee Freedmen	D 319
Harriett Tucker, et al.,	Cherokee Freedmen	D 697
Lydia Carter,	Cherokee Freedmen	D 716
Allie McElroy, et al.,	Cherokee Freedmen	D 717
Robert Harper,	Cherokee Freedmen	D 718
Jordon Harper,	Cherokee Freedmen	D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb, for herself; by Eliza Gaines, for her daughter Mary Mabry; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Leo and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Belle, Eva, Annie,

Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were filed with the Commission showing the birth of George and Julia Johnson; by Eliza Grooms, for herself and minor children, Martha, Dona, Peter W., Leuretha and Ennis Grooms; by Berry Nash, for himself; by Edward Nash, for himself; by Carrie Harris for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Humes, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lottie Martin, by Nellie Brown, for herself and minor children, Roxie, Moses, Jennie, William and Michael Brown; by Harriett Tucker, for herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah M. Tucker; by Lydia Carter, for herself; by Allie McElroy, for herself and minor child, Etta Taylor; by Robert Harper, for himself; and by Jordon Harper, for himself.

The evidence shows that Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein, and that all the other applicants in these several cases have been born since 1866, and, with the exception of Ella Humes and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Humes is the daughter of Rosa Mango, sister of Eliza Gaines, one of said principal applicants, and, claims right to enrollment through her; that the said Rosa Mango was the slave of a Cherokee citizen at the commencement of the rebellion and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin is duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears from affidavits, made a part of the record herein, that the applicant George Johnson died in January, 1902; that the applicant Eliza Grooms died in October, 1901; and that the applicant Ennis Grooms died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902 (32 Stats., 716), provides:

> "The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefor , the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, as Cherokee Freedmen, be and the same are hereby dismissed.

COMMISSION TO THEFIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

Commissioner.

(SIGNED) [illegible]
Commissioner.

Muskogee, Indian Territory,

this SEP 5 1903

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

RECEIVED
1919
ENCL. NO. 7277
SUPT. FIVE CIVILIZED TRIBES

WASHINGTON, [illegible] 14 [illegible], *191*

I, F. B. Meritt, Assistant - - - - - - - - - , Commissioner of Indian Affairs, do hereby certify that the paper s hereto attached -----are---------- true copies of the originals as the same appear --------on file---------- in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

E. B. Meritt

Assistant *Commissioner.*

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. George Martin,
Chelsea, I?T.
Cherokee F-D-237
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee F 1296

Muskogee, Indian Territory, June 8, 1907.

George Martin,

Chelsea, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself, wife and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-15.
S.W.

Acting Commissioner.

Cherokee
F 1221 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-34.
S.W.

Acting Commissioner.

D.C.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T. 47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GM.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ----------Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F-389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie S West,
F-1417 ---------- Callie S West,
F-1494 ----------Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Brown, Laura
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Katie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088 ----------	Martha West,
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

WCP

Commissioner.

COPY.

Cherokee F.D-220,
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Hessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rodie Jones, McKinley Jones, Centralia Jones, John W. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rozie Brown, Moses Brown, Jennie Brown, William Brown,

POOR ORIGINAL -
BEST AVAILABLE COPY

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElrey, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Greens and Ennis Greens.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. ADDOLRS,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-58.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-86.

Cherokee Fr. D237.

Muskogee, Indian Territory, September 30,1903.

George Martin,

Chelsea, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself, your wife, Alice, and your four minor children, Martha, Clifton, Ethel and Jane Martin as Cherokee Freedmen, together with a copy of the Commission's decision, dated September 5th, 1903, granting said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Chairman.

Register.

Enc. D-99

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Louretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Lellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah A. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Hines and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1865.

Ella Hines is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrant the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-237

Muskogee, Indian Territory, April 18, 1904.

George Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself, your wife, Alice Martin, and your minor children, Martha, Clifton, Ethel and Jane Martin, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Bery and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lettie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee F.
1296

COPY

Muskogee, Indian Territory, March 7, 1907.

George Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

Commissioner.

JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review andreject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B

Commissioner.

Encl.H-20
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B

Commissioner.

Encl.H-21
JMH

--Copy-- JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

COPY.

Land
106486-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the department september 16, 1904, opposite Nos. 3550 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on september 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was december 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to september 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee Commission on Citizenship in september 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the department's ruling in the Harry Still and John Morgan Cherokee freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll No. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Albery has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee Freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in r reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citi zens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the whter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian office June 21, 1905(Land 36933-1905), and affirmed by the Department August 5, 1905(I.T.D. 2 76-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in then days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7655-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15572-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Departmen t, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M B

Commissioner

Cher Fr 1297

See Cher Fr 1294-5-6-9-1300-1

Cher Fr 1297

Department of the Interior.
Commission to the Five Civilized Tribes
Vinita, I. T., May 10, 1901.

In the matter of the application of Joshua Martin for enrollment as a Cherokee Freedman; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Joshua Martin.
Q How old are you? A 21 years old.
Q What is your postofficeaddress? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a CherokeeFreedman? A Yes sir, my father always enrolled me.
Q Do you want to enroll anybody besides yourself? A Just myself.
Q Did you ever apply to be enrolled by any other nation or tribe? A No sir.
Q Is your name on the roll of 1880? A I don't know sir; I guess so.
Q What is your father's name? A Aaron Martin.
Q Is he living? A Yes sir.
Q What is your mother's name? A Queen Martin.
Q Is she living? A No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation,examined and the namesof the applicant and that of his parents are not found of record thereon.
The 1896 census roll of the Freedmen of the Cherkee Nation examined and the name of the applicant not found thereon.
The Kerns Clifton Roll examined and the name of the applicant is found on page 119, No. 2958, Joshua Martin, Delaware District.

Q You alwayslived in the Cherokee Nation? A Yes sir.
Q Born and raised in the Cherokee Nation? A Yes sir.

Joshua Martin applies for the enrollment of himself. Upon examination of the roll of 1880, his name is not found thereon, or upon the census roll of 1896; his name is found upon the Kerns Clifton Roll, and is identified as the applicant. He avers that he is the child of Aaron Martin and Queen Martin. The testimony taken in the application of Aaron Martin for the enrollment of himself and children, D-Card 235, is referred to, and will be made a part of the record in this application, consequently the name of Joshua Martin will be placed upon a doubtful card for further consideration by the Commisson. When the Commisson arrived at the conclusion of his case, he will be notified by mail.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

J. Rothenberger.

Subscribed and sworn to before me this 11thday of May, 1901.

Commissioner.

M. D. Green
Notary Pub.

B. J. J. 238

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY [illegible] 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 10, 1901

Post Office Chelsea I.T.

District Coo.

1. Name Joshua Martin Age 21

Owner's name Citizenship

Year KC Page 119 No. 2958 District Del.

Parents:

Father Aaron Martin - living Citizenship

Mother Queen " - dead Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by No 1 Stenographer C. G. Rothenberger

XVII, D 235

38

THE NATIONAL ARCHIVES
RECEIVED THIS
ED
1961

Washington, D.C. March 1, 1961

Dear Mr. Hoover:

Enclosed is a copy of a letter from Mr. Clark Clifford, Counsel to the President, to the Attorney General, which I have just received.

Sincerely yours,

Mr. J. Edgar Hoover
Director
Federal Bureau of Investigation
Washington, D.C.

To be filed in case of Joshua Martin.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Aaron Martin.
Q How old are you, Aaron? A I guess about 67 or 68.
Q What is your postoffice address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A No sir.
Q

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

Q Did you receive your money known as the Cherokee Strip money? A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the name of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

Q Aaron, were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q Full blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866? A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Dap Hicks, and Andrew Frey.
W. W. Hastings: Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
Q Are you a blacksmith? A No sir.
Q Another ka tin is a blacksmith? A Yes sir.
Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
Q How long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks'

mother then.
Q About what time did you come down to the Cherokee Nation after the war - what time in '66? A It was some time in the fall.
Q You have lived there ever since? A Yes sir.

Andrew Frey, being sworn and examined by Commissioner T.B. Needles, on part of the applicant, testified as follows:
Q Is your name Andrew Frey? A Yes sir.
Q How old are you? A 66.
Q What is your postoffice? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Freedman? A Yes sir.
Q Do you know Aaron Martin? A Yes sir.
Q How long have you known him? A Why I don't know, sir, just exactyhow long, ever since we were boys.
Q Was he a slave? A Yes sir.
Q To whom did he belong? A He belonged to John Martin.
Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
Q Where? A He was over here across the river part of the year 1866.
Q In the Cherokee Nation? A Yes sir.
Q Did he go out of the Cherokee Nation during the war? A Yes sir.
Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
Q Did he return? A Yes sir.
Q In what year? A In '66.
Q Are you any relation to him? A No sir.
Q Was he married at that time? A Yes sir.
Q Was his family with him? A Yes sir.
Q Did his family return with him? A Yes sir.
Q Were you a slave? A Yes sir.
Q To whom did you belong? A I belonged to Mary Clark.
Q Were you in Kansas with Aaron Martin? A Yes sir.
Q Did you return with him? A Yes sir.
Q Have you known Aaron Martin well since that time? A Yes sir.
Q Has he lived in the Cherokee Nation since? A Yes sir.
W. W. Hastings: You say he come back with you? A Yes sir.
Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a big crowd of us.
Q Well, name some of the rest of them? A Peter Williams.
Q Anybody else? A Tobe Schrimsher, Jake Martin's family.
Q Anybody else? A I don't know who else.
Q That is all you can remember? A Yes sir.
Q What time in the year did he come back? A He come back - we got back over to Dr. Thomson's place the 3rd of October, '66.
Q Any colored folks there when you got there? A No one at all.
Q You are positive about that, are you? A Yes sir, no one at all there.
Q That was in October, '66? A Yes sir.
L. B. Bell: Who got back there first, you or Judge Daniels' family? A He.

Filmore Hicks, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:
Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your postoffice address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of '66.
Q Where at? A At my mother's.

Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir.
Q Did he have a family at that time? A Yes sir.
Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
W. W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67? A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
Commissioner of Applicant: Did you draw money for Frances and Neely? A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:
Page 23, No. 568, Frances Adams, Delaware District.
Page 23, No. 569, Nealey Adams, Delaware District.

Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all alive and living with you at this time? A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

Aaron Martin applies for the enrollment of himself and three children, Frances, Neely and Phoebe. His name is not found upon the authenticated roll of 1880, but is found upon the Kerns Clifton Roll. By reason of the fact that his name is not found upon the roll of 1880, and his citizenship is contested by the Cherokee Nation, his name will be placed upon a doubtful card. When the Commission arrives at a decision in his case, he will be notified by mail. He avers that his children, Frances, Neely and Phoebe, are the children of Cora Adams, his wife, and the name of Cora Adam is found upon the authenticated roll of 1880, and Frances, and Neely are identified on the Kerns Clifton Pay Roll. The name of Phoebe is not found upon any roll, having been born after the said rolls were compiled. That are all duly identified and make satisfactory proof as to residence, consequently, Frances, Neely, and Phoebe Martin will be duly listed for enrollment as Cherokee Freedmen. Their name appear upon the Kerns Clifton Roll as Adams, but they are duly identified as the applicants. In order to complete the enrollment of Phoebe, it will be necessary for him to file with the Commission satisfactory proof of birth of said Phoebe.

4- A. M.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 14th day of May, 1901.

C. Wickliffe

Commissioner.

N CTD 238

OCT 15 1901

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Lamila N.T. Act 1896.

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Joshua Martin for enrollment as Freedmen of the Cherokee Nation.

W. Sequichie
Agent for applicant.

No. C F 10-938

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Crooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 507
Nellie Brown et al	Cherokee Freedmen D 515
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

POOR ORIGINAL -
BEST AVAILABLE COPY

filed with the Commission showing the birth of George and Julia Johnson; by Ellis Groons for herself and minor children, Martha, Dora, Peter W., Lorretha and Annie Groons; by Henry Nash for himself; by Edward Nash for himself; by Carrie Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Turner, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Ferrel Martin, for himself, his wife, Lizzie, and minor children, Fannie, Lorna, Laura and Lettie Martin; by Hellie Brown for herself and minor children, Ponie, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Olen Martin, Lena Shumbern, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lyda Carter for herself; by Allie Holiroy, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellis Gaines, June Webb, Henry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia and George Johnson are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Ella Hines and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Hines is the daughter of Rose Hange, sister of Ellis Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rose Hange was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin is fully identified in the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in October, 1901, and that the applicant, Ellis Groons, died in October, 1901; and that the applicant, Annie Groons, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made up to September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Fabry, Frank Fabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Hash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nelle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Neurotha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Lila Hughes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Donie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Barrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah E. Tucker, Lydia Carter, Allie McElroy, Nita Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Sept 5-1906.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Joshua Martin,

Chelsea, I.T.
Cherokee F-D-238
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee F. D-220
et al.

Muskogee, Indian Territory, September 9,1903

W. C. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 9,1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Henry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Nello, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper, as Cherokee freedmen and dismissing the applications for the enrollment of George Johnson, and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. 1-6

COPY.

Cherokee Freedmen
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Dean, Henrietta Dean, George Tucker, Lloyd Tucker, Sarah L. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MEADLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedmen
D-238.

Muskogee, Indian Territory, September 30, 1903

Joshua Martin,

Chelsea, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your agent, J. R. Sequichie, Chelsea, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Chairman.

Enc. D-86
Register.

COPY.

Cherokee Freedmen
D-238.

Muskogee, Indian Territory, September 30, 1903.

J. R. Sequichie,

Agent for Joshua Martin,

Chelsea, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, the application for the enrollment of Joshua Martin as a Cherokee freedman. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.
Chairman.

Enc. D-87
Register.

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Louretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-238.

Muskogee, Indian Territory, April 18, 1904.

Joshua Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Fran Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Bery and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah H. Tucker, Glen Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greens, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--369 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ----------Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter T. Grooms,
3566	Leurotha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Brown, James
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Lexie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Glen Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah N. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin , opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 26, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 16, 1905, decided that he was not the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905(Land 38933-1905), and affirmed by the Department August 5, 1905(I.T.D. 7 76-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7636-1904), it was held that a judgment of the Cherokee Court-

> "Is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence taken before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence now available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan et al., on September 7, 1906 (I.T.D. 15572-1906), in the case of Ada Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in cases favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review, applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M W

Commissioner

COPY.

Land
106486-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the department september 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on september 24, 1901. subsequent proceedings, however, with reference to his death tend to show that the date of his death was december 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to september 1, 1902, and his name was subsequently stricken from the roll of cherokee freedmen.

The motion and argument of the attorney for the cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the cherokee commission on citizenship in september 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry still and John Morgan cherokee freedmen cases. The proceedings had before the cherokee commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll No. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the civil war. It appears that James Albery has appeared as a witness in Cherokee freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the Attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1297

COPY

Muskogee, Indian Territory, March 7, 1907.

Joshua Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby.

JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Encl.H-21
JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review andreject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B.
Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Wabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

WJP

Commissioner.

D.C.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T.
47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1297.

Muskogee, Indian Territory, June 8, 1907.

Joshua Martin,

Chelsea, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-16.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1298

Cher Fr 1298

B. J.D. 247

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY [illegible] 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 10, 1901

Post Office Muskogee I.T.

District 600

1. Name Edward Brown Age 30

Owner's name Citizenship

Year R.C. Page 162 No. 4006 District 600

Parents:

Father Wm Brown — living Citizenship Colored

Mother Jane Webb. — living Citizenship Cher. Freedmen

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

2 ~~Henry~~ Henry Brown Year ~~Page~~ ~~No.~~ ~~Dist.~~ 4

3 Stella " Year ~~Page~~ ~~No.~~ ~~Dist.~~ 2

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by M. I. Stenographer B.C. Jones

1 On R and C rolls as Eddie Brown

2 and 3 affs of birth required

marriage certificate filed

XVI of A. I. 220 and D 221

Mellette and Smith, attys for applicants

File with case of Edward Brown, Cherokee Freedman.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, IT., May 9th, 1901.

In the matter of the application of Jane Webb for enrollment as a Cherokee Freedman; said Webb being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Jane Webb now, I was Jane Brown first.
Q How old are you, Jane? A I don't know, the white folks said I was about six years old when the war ended.
Q What is your post office? A Bluejacket.
Q What district do you live in? A Cooweescoowee district.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you desire to enroll besides yourself? A Not anyone.
Q Got no children under 21 years old? A Got one, he is of age.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A It ought to be on there I had it put on down at Tahlequah.
Q Did you ever apply to any other Nation or tribe for enrollment?
A No, sir.
Q Did you ever draw any money from any other Nation or tribe?
A No, sir.
Q Did you draw what is known as the strip payment money? A I drawed three times.

The 1880 authenticated roll of citizens of the Cherokee Nation examined and the applicant's name not found thereon.
The 1896 Census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Are you married? A Yes, sir.
Q What is your husband's name? A Jim Webb now.
Q Were you ever married before? A Yes, sir.
Q What was your other husband's name? A William Brown.
Q Is he living? A Yes, sir.
Q Were you ever married before that? A No,,sir.
Q What was your father's name? A Edmond Vann.
Q What was your mother's name? A Mary Stover.
Q Are they living? A Yes, sir.
Q Well, now what was your maiden name; what was your name when you were a girl? A Jane Stover.
Q Were you a slave during the war? A Yes, sir.
Q Before the war? A Yes, sir.
Q Whom did you belong to? A John Stover.
Q Did you go out of the Cherokee Nation during the war? A No, sir.
Q Aalways remained in the Cherokee Nation? A Yes, sir.
Q Have you lived here ever since? A Yes, sir.
Q All your life? A Out Master took us to Texas and brought us back.
Q Took you to Texas when? A In the time of the war.
Q When did he bring you back? A Brought us back as far as the Chickasaw Nation and then he died.
Q When was that? A I don't know what year he died in.
Q In what year did he bring you to the Chickasaw Nation? A I don't know.
Q Don't you know in what year you come to the Cherokee Nation?
A Mrs. Nancy Daniel said it was '66.
Q How long did you live in the Chickasaw Nation until you come to the Cherokee Nation? A Come right up.

By Mr. Smith, of the firm of Smith & Mellette, Attorneys for Applicant:

Q Is Eliza Gaines your sister? A Yes, sir.
Q Is she older or younger than you? A Older than I am.
Q You spoke of your Master's having brought you back as far as the

Chickasaw Nation; who was along when you were coming back?
A Eliza Gaines was along and myself, and my sisterLydia and my brother Berry and my sister Mary.
Q Did your sister, Eliza, have any children? A Yes, sir.
Q What children did she have then? A She had Julia, had Georgia and she had John and then Lizzie, that is all she had then.
Q Who is Berry Thompson? A That is my brother.
Q Where are those sisters other than Eliza that you have spoken about; are they living or dead? A They are living.

Com'r Needles: Reference is made to the testimony taken in the case of Eliza Gaines and made part of this record. Her name is found on D. Card #220.

By W.W. Hastings, Cherokee Representative:
Q Where were you married the first time? A I married in Texas.
Q Do you remember what year you were married? A No, sir.
Q What is your oldest child's name? A Etta Brown.
Q Where was it born? A It was born up on the Larkin place.
Q How old is it? A I don't know, this gives his age on this paper, I don't know.
Q That was your first child? A Yes, sir.
Q You come up here directly after you married? A Yes, sir.
Q You haven't any certificate of marriage? A No, sir.
Q You don't know what place in Texas you were married?
A No, sir.
Q Did you see the young Mistress Martha in the Chickasaw Nation?
A Yes, sir.
Q Did you stay there where she was when her father and your Master died? (No response)
Q Was it near where Martha lived? A I don't know, I guess it was.
Q Were you living in the same neighborhood down there that Martha Bakin was living in? A Yes, sir.
Q You come up to Fort Gibson with your sister, Eliza Gaines?
A Yes, sir.
Q You followed her the grounds that she testified that she went?
A Yes, sir, I went all the rounds.
Q I want to ask you if Mrs. Dora Trott was not one of your young Mistresses? A Yes, sir, she was one of them.
Q She lives here in Vinita A Yes, sir.
Q Did you see her when you come up here to Cabin Creek?
A No, sir; I never seen her until Homer and Birtie was about that high (indicating)
Q You didn't pass by her house when you come up here? A No, sir; I did not. I know we didn't pass any town except the town of Gibson.
Q You never lived up in Kansas? A Yes, sir, lived up in there off and on.
Q What town in Kansas did you stay? A Chetopa.
QQ Did you live in the town? A Yes, sir, and would go back home.
Q Did you live in any other town in Kansas? A No, sir, never lived in any other town, was up to Fort Scott to visit my sister.
Q What was your sister's name? A Ann Wilson, she was Ann Stover when she was a slave.

By Mr. Smith:
Q You went to Fort Scott to visit your sister, you say? A Yes,sir

Com'r Needles: Jane Webb applies for the enrollment of herself as a Cherokee Freedman. Her name cannot be found upon the authenticated roll of 1880. Her name is found upon the Kerns-Clifton pay roll as indicated in the testimony. She makes satisfactory proof as to residence. By agreement of the counsel for the applicant and the Cherokee Nation present, the testimony taken in the matter of the enrollment of Eliza Gaines, D#220, and the testimony taken in the case of Berry Thompson,

D/223, is hereby referred to and is made part of the record in this case. Her name will now be placed upon a doubtful card awaiting further consideration. When this case is decided by the Commission she will be notified by due course of mail. If in the meantime she desires to introduce any additional testimony, the same will be received.

The Kerns-Clifton roll of citizens of the Cherokee Nation examined and the applicant's name found thereon, page 162, No. 4005, Jane Webb, Cooweescoowee District.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed J. O. Rosson,

Subscribed and sworn to before me this 10th day of May, 1901.

Signed, C. R. Breckinridge,
Commissioner.

****

Bruce C. Jones, Stenographer to the Commission to the Five Civilized Tribes, being duly sworn, says that the foregoing is a true and complete copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 29th of May, 1901.

C R Breckinridge

Commissioner.

File with case of Edward Brown.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q How, about how old? A I got it you can see it? (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there. (Referring to paper).
Q Children are all grown? A Yes, sir.

The 1880 authenticated roll of citizens of the Cherokee Nation examined and the applicant's name not found thereon. The 1896 census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A Yes, sir.

The Kerns-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

By Mr. Smith, of the firm of Smith & Mellette, Attorneys for Applicant:

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66 near Christmas.
Q Where did you come to, what part of the Cherokee Nation? A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kerns-Clifton roll? A I guess I am on it, you will have to look to see.

By W.W.Hastings, Cherokee Representative:

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't come back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but my and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.
Q You hired a wagon did you? A Yes, sir.

Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.

Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel again.

Q About how long? A I guess it was about nearly, oever six months, a year; we stayed there and drawed rations.

Q Whom did you stay with at Gibson? A We was in a tent.

Q Just you two and her husband? A Yes, sir, and the children.

Q What children did you had at that time? A I had Julia and Georgia and John Henry and Lizzie.

Q They were all along with you? A Yes, sir.

Q Who did you work for at Fort Gibson? A I washed for the soldiers.

Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bell's.

Q Mr. Hooley Bell? A Yes, sir.

Q Where was he living at that time? A I can't tell you, but it was somewheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.

Q For Hooley Bell? A Yes, sir.

Q How long did you stay with Hooley Bell? QA Stayed until along in the fall.

Q You stayed there from the summer until the fall? A Yes, sir.

Q About six or eight months? A Yes, sir.

Q And that must have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.

Q Now, where did you go? A I went to Chetopa and stayed there.

Q Chetopa, Kansas? A Yes, sir, right across the line.

Q You didn't go into the State of Kansas? A No, sir.

Q You only went up near Chetopa on the Cherokee side? A Yes, sir, on what they call.

Q Now whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.

Q Now how long did you work for Larkins? A We stayed there a long time.

Q A number of years? A Yes, sir, until we moved down here.

Q Until you moved where you live now? A Yes, sir.

Q After you left Hooley Bells place you went up to Larkins place? A Yes, sir.

Q Are any of Mr. Larkins folks alive now? A Not as I know of.

Q He had a family did he? A Yes, sir, he had four in his family, his wife and two children.

Q Was Mr. Larkin a citizen of the Cherokee Nation? A I don't know, he hired us to work.

Q Have you ever lived in Kansas since the war? A No, sir.

Q You never went up there at all? A No, sir, just go up there and come back.

Q You came back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timber Hill near Bluejacket.

Q You mean you come from the Larkins place down to near Bluejacket? A Yes, sir.

Q What direction is that, is it on the Cooweescoowee side? A Yes, sir.

Q Towards the sunset from Bluejacket? A Yes, sir.

Q Did your sister go with you all these round you were talking about? A She was with me pretty much ~~ai~~ of the time.

Q Did these children go with you? A They was with me sone and I had some hired out.

Q You stayed about three or four years at the Larkins place? A Yes, sir.

Q Did you have any neighbors around there? A There was no neighbors but one family.

Q What was that family? A John Shafer
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir.
Q Were you liveing there when the railroad come there? A No, sir, wasn't no railroad, living there long before the railroad was built.
Q You were living there when the railroad was built? A Yes, sir, there wasn't no houses when the railroad come through.
Q Were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now Aunty, how far from the railroad track, the M.K.& T., were you living? A I don't know, we could not hear the train.
Q On the south of the track? A That was on this side of the track, over in Cooweescoowee.
By Mr. Smith:
Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Julia Nash, Lizzie, Georgia Ann, Malinda, Etta, Benny, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? (No response)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by this same name: are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:
Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.
By Mr. Smith:
Q Do you know Eliza Nash or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I first known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll, or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir; yes sir, I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A Well, I come back in, along, in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back? A Along in the summer, Spring like.
Q Of 1865? A Yes, sir.

Q And the following winter? A No, it was the year we called there, that winter and the next winter, come in the same winter, that is right, the same winter.

Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.

Q Do you know her children, know what their names are all of them, or not? A No, sir, I don't know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

By W. W. Hastings:

Q Did you see her there then the one time, Mr. Chambers?

A No, sir, I seen her there as much as twice I know of; it was the first time I saw there it was.

Q That was in the fall after you come back in the spring or summer?

A Yes, sir, after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.

Q You are positive you saw her? A Yes, sir; I am positive I saw her there.

Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.

Q And that is the fall you saw her? A Yes, sir, that winter I seen her.

Q You know that? A Yes, sir, I know that to be fact.

Q You come here you say in the spring or summer of 1865? A Yes, sir.

Q And say it was the next winter you saw her? A Yes, sir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I stayed there all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.

Q And you noticed her among all that bunch? A Yes, sir.

Q You remember seeing her? A Yes, sir.

Q Well, when did you next see her? A I seen her again a short time after that I saw her there in a store the next time I saw her.

Q Whost store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recalls.

Q I was not there? A There at Fort Gibson.

Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.

Q How long was that after you saw her at Fort Gibson? A Four or five years.

Q You don't know where she had been in the meantime? A No, sir, but I don't think she had been anywhere but, I heard of her living up by William Tucker's.

Q You never did see her up there? A No, sir.

Q Have you ever been arrested? A Yes, sir.

Q What for? A Several things.

Q How many times? A Twice, three times, one time for selling bows and the next time for selling cedar posts.

Q What Court? A Cherokee; arrested one time by the United States Court.

Q What for? A For shooting at a man.

Q What was done with you? A Never done anything with me.

Q Did they try you? A Yes, sir, never done anything.

Q What did they do with you in the Cherokee Court? A Nothing, turned me aloose and let me go home.

Q Never was convicted? A No, sir.

Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lots others.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, voted.
Q Is your name on the roll of 1880? A No, sir.

By Mr. Smith:

Q Do you know Eliza Gaines? A Yes, sir.
Q Sometimes called Nash? A I know her.
Q How long have you known her? A I don't know how long, I known her when she was with her old Master, I don't know how long that has been.
Q Who was that? A Mr. Stover.
Q Well, where were you during the war: did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was that time? A (No response.)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you know any of her family, any of her children?
A No, sir, I could not tell anything about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and if I don't mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see? A Lydia that I noticed
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation, and if so, when they came back? A No, sir, I don't know.

By W. W. Hastings:

Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war? A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stover's.
Q How far was that from where you were living? A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A Yes, sir.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there washing, I don't know where she was living.
Q How did you happen to remember seeing her? A I stopped there where she was and talked with her.
Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.
Q Where is that? A I don't know which way it is from here.

Q How far from Vinita? A Good ways.
Q Near whose place? A Bill Tucker's.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it may have been a year or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tucker's.
Q Where did you see her the next time? A Where she lives now.
Q About how long was that after that? A I don't know.
Q She moved from where she lived on Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Bluejacket.
Q Jim, were you ever tried for anything bynthe Courts? A No,sir.
Q Never was arrested? A No, sir, not by the Courts, I was not.
Q By Marshals? A No, sir, I used to be a Marshal myself, I never was arrested for any crime of any kind, never was.

Com'r Needles: Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880 or any rolls not in the possession of this Commission except the Kerns-Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed, J. O. Rosson,

Subscribed and sworn to before me this 10th day of May, 1901.

Signed, C. R. Breckinridge,
Commissioner.

****

Bruce C. Jones, stenographer to the Commission to the Five Civilized Tribes, being duly sworn, says that the foregoing is a true copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 29th of May, 1901.

C R Breckinridge

Commissioner.

D 247

JUN 17 1991

ACTING CHIEF

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes, in the matter of the application of Edward Brown et al for enrollment as Freedmen of the Cherokee Nation, one copy of original testimony of May 10th, 1901, one copy of roiginal testimony, May 9th, 1901, from case of Eliza Gains and one copy of original testimony, May 9th, 1901, from case of Jane Webb.

Mellette Smith
Attorney for Applicants.

Cherokee F. #D247.

F2247

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the .....day of.....A. D. 1901.

Given under my hand this.....

day.....A. D. 1901.

.....

Marshal for Cherokee Nation.

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the .....day of SEP 18 1901.

Mullette Lorbeth

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the.....day of.....A.D.1901

.....

Subscribed and sworn to before me this.....day of.....A.D.1901.

.....

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 18 1901

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF The application of Edward Brown for enrollment as a Cherokee Freedman:

Case No. F. D. 247

To E. Brown. or Mellette & Smith

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct 12th, at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12 day of Sept, 1901.

L B Bell

Attorneys for the Cherokee Nation.

F. D. 247

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the

.....day of .....A. D. 190....

Given under my hand this..... .....

day of.....A. D. 190....

.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the 1st day of Oct, 1901.

Mustin & Mustin

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the.....day of ..... A. D. 190....

.....

Subscribed and sworn to before me this .....

.....

Notary Public.

DEPARTMENT OF THE INT...
COMMISSION TO THE FIVE CIVIL ...
FILED
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NOTICE!

IN THE MATTER OF the application of Mary A. Fry for enrollment as Cherokee Freedmen:

Case No. F. D 274

To Mary A. Fry or Mellette & Smith her Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on Oct. 21st at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Oct. 9, 1901.

L B Bell

W. W. Hastings

J S Davenport

Attorneys for the Cherokee Nation.

File with case of Edward Brown, et al., C.F.-D.#247.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE being duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
Q When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~improve~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When,& if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q when you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~xxxxx~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t notheing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time that got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there;in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/ Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation oBject to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

Motor Supply Co.

Subscribed and sworn to before me this 2 day of May 1908.

Notary Public.

Filed May 2 1908.

Actions

Motion to dismiss appeal.

Motion to dismiss appeal to the Court of Appeals on the ground that the order appealed from is not a final order affecting a substantial right.

Motion denied. Exceptions by the defendant.

Order to be settled on two days notice.

(Signed) Albert Ward

Dated May 2 1908.

Motion denied. Exceptions by the defendant.

Order to be settled on two days notice.

(Signed) Albert Ward

Dated May 2 1908.

Motion to dismiss appeal to the Court of Appeals on the ground that the order appealed from is not a final order affecting a substantial right.

Motion denied. Exceptions by the defendant.

Order to be settled on two days notice.

(Signed) Albert Ward

Dated May 2 1908.

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F. D-220.

To be filed with C. F. D. 232, Edward Brown et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 28th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 26 1881.

No. 112.	Mary Stover, Eliza Stover, Jane Stover, Berry Stover, Lydia Stover, Angelina Stover, Mary Stover, vs Cherokee Nation.	PETITION FOR CITIZENSHIP. J. M. Bryan, Atty for Claimant.

Continued by the plaintiff,
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bossy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of hem are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al. D-226, Malinda Jones et al, D-227, Eliza Crooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B. O. Jones

Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of JERRY ALNT for enrollment as a Cherokee Freedman:

Applicant appears by Nellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17299, filed in the Mariah Hayden case D 248, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Edward Brown, D 247;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation certainly most strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Crooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 233
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 507
Nellie Brown et al	Cherokee Freedmen D 51[illegible]
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

filed with the Commission showing the birth of George and Julia Johnson; by Ella Crooks for herself and minor children, Martha, Dora, Peter W., Lorretha and Ennis Crooks; by Perry Nash for himself; by Edward Nash for himself; by Carrie Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lottie Martin; by Nellie Brown for herself and minor children, Louis, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Clem Martin, Anna Shumbean, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lydia Carter for herself; by Allie McIlroy, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ella Gaines, Jane Webb, Perry Thomas, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 186 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 186 .

The evidence further shows that Ella Hunter is the daughter of Joe Hunter, sister of Ella Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Joe Hunter was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19,1866.

The said Alice Martin was duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 186 , or from date of birth where born since the year 186 , up to and including the date of the application herein, except-ing occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28,1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1901, and that the applicant, Ella Crooks, died in October, 1901; and that the applicant, Ennis Crooks, died in August, 1903.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed on September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Caines, Jane Webb, Mary Fabry, Frank Fabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Bean, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Rona Grooms, Peter M. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hines, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Glen Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McIlroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Dec 1-1903.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

DEPARTMENT
RECEIVED
DEC 11 1919
ENCL. TO
NO. 5571
SUPT. CIVILIZATION

WASHINGTON, December 6, 1919.

I, E. B. Meritt, - - - Assistant Commissioner of Indian Affairs, do hereby certify that the paper hereto attached is a - - true copy of the original as the same appears on file - - in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed on the day and year first above written.

E B Meritt

Assistant Commissioner.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

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RECEIVED
DEC 11 1919
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SUPT. FIVE CIVILIZED TRIBES

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E B Meritt

Assistant Commissioner.

F.D.2.4.4

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Edward Brown,
Bluejacket, I.T.

Cherokee F-D-247
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee F. D-220
et al.

Muskogee, Indian Territory, September 9,1903

W. . Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 8,1903, granting the applications for the enrollment of Eliza Gaines, June Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie M., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper, as Cherokee freedmen and dismissing the applications for the enrollment of George Johnson, and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby.

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Aubry, Frank Aubry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse N. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rexie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDOLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Lauretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

Cherokee Freedmen
D-247.

Muskogee, Indian Territory, September 30, 1903.

Edward Brown,

Bluejacket, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor children, Henry, Stella and Laura Brown, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

Register. Chairman.

Enc. D-88.

Refer in reply to
the following:
LAND
63879-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Hunes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Lellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Glen Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Damron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-247.

Muskogee, Indian Territory, April 18, 1904.

Edward Brown,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor children, Henry, Stella and Laura Brown, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-320, et al.

Muskogee, Indian Territory, April 16, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Iney Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Crooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor, and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Greene as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Greens, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--369 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ----------Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John W. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Lauretta Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Brown, Lawrence
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Evan Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callis West,
4079	Henry West,
4080	Callis West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Katie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28,1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "To review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll?

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellionl that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905, (Land 38933-1905) and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1298

COPY

Muskogee, Indian Territory, March 7, 1907.

Edward Brown,

Bluejacket, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby,

JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-21
JMH

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John F. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedmen 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedmen 1304
Jordan Harper	Cherokee freedmen 1305

Respectfully,

WMP

Commissioner.

D.C.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T.
47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cherokee F 1298.

Muskogee, Indian Territory, June 8, 1907.

Edward Brown,

Bluejacket, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-17.
S.W.

Acting Commissioner.

COPY

Land
1904[illegible]-1906.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 26, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, etc review and rejects the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee Freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 8, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the department september 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on september 24, 1901. subsequent proceedings, however, with reference to his dea death tend to show that the date of his death was december 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to september 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee commission on citizenship on september 28, 1882, that they are not entitled to enrolment as citizens of the Cherokee Nation, following the department's ruling in the Harry Still and John Morgan Cherokee freedmen cases. The proceedings had before the Cherokee commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll No. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war; that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the commission to the five civilized tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the Rebellion, while the commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the civil war. It appears that James Albury has appeared as a witness in Cherokee freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the commission to the five civilized tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

Cher Fr 1299

Cher Fr 1299

H.D. 317

OF THE INTE
THE FIVE CIVILIZED TRIBES.
FILED
MAY 17 1901

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., MAY 16th, 1901.

In the matter of the application of Israel Martin for the enrollment of himself, wife and four children as Cherokee Freedmen; said Martin being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Israel Martin.
Q What is your age, Mr. Martin? A I don't know exactly how old I am.
Q Well about how old? A That is what I don't know; I can tell you about when they told me I was born, I was born three weeks after Price's raid.
Q About 37 years old then? A I reckon so.
Q What is your post office? A Ruby.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir, I reckon so.
Q Is your name on the roll of 1880? A I don't know, it ought to be.
Q Who do you want to enroll besides yourself? A I want to enroll myself and four children.
Q What are the names of your children? A Maggie.
Q How old is ~~Maggie~~ Maggie? (Hands paper to COM'R.) (12)
Q Next one? A Louis.
Q He was born in 1893.
Q What is the name of the next one? A Laura.
Q 1896, be five years old.
Q What is the name of the next one? A Lottie.
Q She is about a year and a half old? A Yes, sir.
Q Are these children all living now? A Yes, sir.
Q What is your wife's name? A Lizzie, she is a daughter of Eliza Stover.
Q How old is she? A I don't know.
Q Well about how old? A Maybe I would not say, I don't know.
Q Is she a hundred? A No, sir, she is not a hundred.
Q Can't you come within a few years of guessing her age?
A Judge I might miss it.
Q Well suppose you do? A I don't know that I want to say becuase I don't know, I am honest in the opinion, I don't know.
Q What is her mother's name? A Eliza Gaines.
Q Is she living? A Yes, sir.
Q What is her father's name? A Her father is named Henry Nash.
Q Is he living? A No, sir, he is dead, he has been dead quire a bit.
Q Where was your wife born? A Well, sir, can't tell you that.
Q Where is she? A She is here.

LIZZIE MARTIN, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Lizzie Martin.
Q Are you the wife of Israel Martin? A Yes, sir.
Q About how old are you? A I don't know, sir, how old I am.
Q Well, about how old? A I can't tell.
Q You are not 50 are you? A No, sir.
Q Are you 40? A I don't know.
Q But you know you arenot 50? A Yes, sir.
Q Where were you born? A I don't know, sir.
Q Where do you live, do you know that? A Live at Big Creek.
Q You don't know whether you were born in the Cherokee Nation or not, do you? A I guess I was born in the Cherokee Nation.
Q Have you lived in the Cherokee Nation all your life?
A Yes, sir, been here all my life.
Q What is your mother's name? A Eliza Stover.
Q Was her name ever Eliza Gaines? A Yes, sir.
Q Has she married a Stover since she married Gaines? A No, sir, her name is Gaines now.

ISRAEL MARTIN, the Applicant, re-called:

Q Don't you know whether your name is on the roll of 1880 or not?
A I don't know.
Q You know now very well whether your name is on the roll of 1880 or not? A we have talked about it and and we have asked men that supposed to know about it and say they don't know and we didn't know.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and the names of applicants not found thereon.

Q What was your father's name? A Aron Martin.
Q Is he living? A Yes, sir.
Q What is your mother's name? A My mother's name is Queen.
Q Is she living? A No, sir; she is dead.
Q Did you draw your strip payment money? A Yes, sir.
Q Did yo have a duaghter named Cora? A She is a daughterof mine, but she is grown.

The Kerns-Clifton roll of Freedmen of the Cherokee Nation examined and the names of the applicants found thereon as follows:
Page 119, #2947, Israel Martin, Delaware District.
Page 119, #2950, Maggie Martin, Delaware District.
Page 119, #2951, Louis Martin, Delaware District.
Q Did you get strip money for Lizzie? A Yes, sir.
Page 161, #3986, Lizzie Nash, Cooweescoowee District.

Q Have you got any witnesses in regard to your case? A Yes, sir.
Q well who are they? A Andy Frye and Cap Hicks.

ELIAS DOWNING, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Elias Downing.
Q What is your age, Mr. Downing? A About 58.
Q what is your post office address? A Chelsea.
Q Do you know Israel Martin? A Yes, sir.
Q How long have you known him? A I have been knowing him ever since he was a little bitty boy.
Q Was he a slave? A Well his mother was a slave.
Q What was his mother's name? A Queen.
Q Queen Martin? A Yes, sir.
Q Whom did she belong to? A Eliza Wright.
Q Was Eliza Wright a Cherokee by blood? A Yes, sir.
Q well do you know whether this Israel Martin was taken out of the Cherokee Nation during the war? A He was not born then, his father was taken out.
Q His father's name was Aaron? A Yes, sir.
Q When did his father come back? A He come back here in '66.
Q Israel was born afterwards? A Yes, sir, that is, he was born after they left here, but he come back with his father.
Q Lived in the Cherokee Nation ever since has he? A Yes, sir.

ISRAEL MARTIN, the Applicant, re-called:

Q Are these children you apply for all living at this time?
A Yes, sir.
Q Have you lived in the Cherokee Nation all your life?
A Yes, sir.
Q Your wife has also lived in the Cherokee Nation?
A Yes, sir.
Q Were you married to Lizzie Nash? A Yes, sir.

Q When? A I don't know what year it was, goot long while.
Q Have you any certificate of marriage? A That preacher didn't give us anything.
Q Is he living? A Yes, sir.
Q What is his name? A Sam Webber.
Q Do you know where he lives? A Lives out close to Nowata.

COM'R MEADES:--Israel Martin applies for the enrollment of himself, his wife, Lizzie, and four children, Maggie, Louis, Laura and Lottie. The names of Israel Martin and his wife, Lizzie, are not found upon the authenticated roll of 1880. They are duly identified on the Kerns-Clifton roll. The names of his ~~three~~ two older children, Maggie and Louis, are found upon the Kerns-Clifton roll and are duly identified. Applicant avers that he is the child of Aaron Martin, who is enrolled on D Card #235. His wife, Lizzie, avers that she is the child of Eliza Gaines by her father, Henry Nash. She is duly identified upon the Kerns-Clifton roll as Lizzie Nash, that having been the name of her father. Reference is made herein to the testimony taken in the case of Eliza Gaines, mother of Lizzie Martin, wife of the applicant, whose name is enrolled upon D. Card #220. Reference is also made in behalf of Israel Martin to the testimony taken in the case of his father, Aaron Martin, who is enrolled on D. card #235; consequently the testimony taken in the case of Eliza Gaines, mother of Lizzie Martin, will be referred to in her behalf and made part of the record in this case, and the testimony taken in the case of Aaron Martin, on D. card #235, is referred to in behalf of applicant, Israel Martin, and will be made part of the record in this case and a copy of the same will be filed herewith.

It will be necessary for applicant to furnish a certificate of marriage certifying to his marriage with his wife, Lizzie; and also necessary for him to furnish satisfactory proof of birth of his two younger children, Laura and Lottie.

By reason of the fact that the name of the said Israel Martin or that of his wife, Lizzie, does not appear upon the authenticated roll of 1880 and from the fact that their citizenship is contested by the Cherokee Nation, their names ~~are~~ those of their children will be placed upon a doubtful card for the further consideration of the Commission. The final decision of the Commission will be made known to the applicant at his post office address.

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J. O. Losson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Losson

Subscribed and sworn to before me this 17th day of May, 1901.

C. H. Meades

Commissioner.

B. J.J. 307

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 16 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 16, 1901

Post Office Ruby, I.T.

District Coweescoowee

1. Name Israel Martin Age 37

Owner's name Citizenship

Year K.C. Page 119 No. 2947 District Delaware

Parents:

Father Aaron Martin - living Citizenship

Mother Dyan " - dead Citizenship

2. Name of wife Lizzie Martin Age 30?

Owner's name Citizenship

Year K.C. Page 161 No. 3986 District Cow

Parents:

Father Henry Nash - dead Citizenship

Mother Eliza Gaines - living Citizenship

Names of Children:

3. Maggie Martin	Year K.C.	Page 119	No. 2950	Dist Del	12
4. Lottie "	Year "	Page 119	No. 2951	Dist. "	8
5. Laura "	Year —	Page —	No. —	Dist. —	5
6. Lottie "	Year —	Page —	No. —	Dist. —	1½
7.	Year	Page	No.	Dist.	
8.	Year	Page	No.	Dist.	
9.	Year	Page	No.	Dist.	
10.	Year	Page	No.	Dist.	
11.	Year	Page	No.	Dist.	
12.	Year	Page	No.	Dist.	

Application made by No. 1 Stenographer J.D. Rosson

2 On K.C. roll as Lizzie Nash
Certificate of marriage to be supplied
5 and 6 affidavits of birth to be supplied

Denied

"Well 'Vas' to Vab ATTI ayte am otolod of nrom bug bedtrcsdus

Spdcrlt Bnlfin' of 81---4 .

DEPARTMENT OF COMMERCE
COMMISSION TO

AUG 1 1 1980

Bulletin Mr. D. Gleb
(Bengie)

Bdnsdnbnbcn .. E (Bengie)

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To be filed with the case of Israel Martin, C. F.-D.#307.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee Freedmen; he being sworn and e amined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Aaron Martin.
Q How old are you, Aaron? A I guess about 67 or 68.
Q What is your post office address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she marriedyou? A Yes, sir.
Q About how old would Cora be if she were alive? A I don't know, sir.
Q Have you been recognizedby the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or Nation? A No, sir.

The 1880 Authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and names of the applicants not found thereon.

Q Did you receive your money known as the Cherokee Strip money? A Yes, sir.

The Kern Clifton Roll of the Freedmen of the Cherokee Nation examined and name of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

Q Aaron, were you a slave before the war? A Yes, sir.
Q Who dod you b long to? A John Martin.
Q Was he a Cherokee citizen? A Yes, sir.
Q By blood? A Yes, sir.
Q Did you go out of the Cherokee Nation during the war? A Yes, sir
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866? A Yes, sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No, sir.
Q Did you ever appl? to the Cherokee Council to have your name placed on the roll of 1880? A No, sir; I didn't.
Q Have you any witnesses here? A Yes, sir.
Q Who are they? A Cap Hicks, and Andrew Frey.
W. W. HASTINGS: Where did you come to when you come back?
A I come to Dr. Thompson's place over there to Grand River.
Q Are you a blacksmith? A No, sir.
Q Another Martin is a blacksmith? A Yes, sir.
Q Who was living down there at the Thompson place when you come back?

A Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
Q How long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks' mother then.
Q About what time did you come down to the Cherokee Nation after the war, what time in '66? A It was some time in the fall.
Q You have lived there ever since? A Yes, sir.

ANDREW FREY, being sworn and examined by Commissioner T. B. Needles, testified as follows, on part of the applicant:

Q Is your name Andrew Frey? A Yes, sir.
Q How old are you? A 66.
Q What is your post office? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Freedman? A Yes, sir.
Q Do you know Aaron Martin? A Yes, sir.
Q How long have you known him? A Why I don't know, sir, just exactly how long, ever since we were boys.
Q Was he a slave? A Yes, sir.
Q To whom did he belong? A He belonged to John Martin.
Q Do you know where Aaron Martin was in the year 1866? A Yes, sir.
Q Where? A He was over here across the river part of the year 1866.
Q In the Cherokee Nation? A Yes, sir.
Q Did he go out of the Cherokee Nation during the war? A Yes, sir.
Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
Q Did he return? A Yes, sir.
Q In what year? A In '66.
Q Are you any relation to him? A No, sir.
Q Was he married at that time? A Yes, sir.
Q Was his family with him? A Yes, sir.
Q Did his family return with him? A Yes, sir.
Q Where you a slave? A Yes, sir.
Q To whom did you belong? A I belonged to Mary Clark.
Q Were you in Kansas with Aaron Martin? A Yes, sir.
Q Did you return with him? A Yes, sir.
Q Have you known Aaron Martin well since that time? A Yes, sir.
Q Has he lived in the Cherokee Nation since? A Yes, sir.
W. W. HASTINGS: You say he come back with you? A Yes, sir.
Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a big crowd of us.
Q Well, name some of the rest of them? A Peter Williams.
Q Anybody else? A Tobe Schrimsher, Jake Martin's family.
Q Anybody else? A I don't know who else .
Q That is all you can remember? A Yes, sir.
Q What time in the year did he come back? A He come back; we got back over to Dr. Thompson's place the 3rd of October, '66.
Q Any colored folks there when you got there? A No one at all.
Q You are positive about that are you? A Yes, sir, no one at all there.
Q That was in October, '66? A Yes, sir.
L. B. BELL: Who got back there first, you or Judge Daniels' family? A Me.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:

Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your post office address? A Vinita now.

Q A4e you a citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A Yes, sir.
Q Do you know the applicaht, Aaron Martin? A Yes, sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes, sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whetherhe went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the niehgborhood.
Q When did you first see Aaron Martin after the war?
A Late in the fall of '66.
Q Where at? A At my mother's.
Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that
A Yes, sir.
Q Did he have a family at that time? A Yes, sir.
Q Was his family with him? A Yes, sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes, sir.
Q Did he farm that land in the fall of '66? A No, sir, in the fal of '67.
W. W. HASTINGS: Who farmed it in '76? A Young Wolf, my mother's husband.
Q Did you ever have a renter after you had this fellow?
A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived acorss the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below the little on the other side of the river.
Q Your mother had a farm there that year? A Yes, sir.
Q Are you positive this man tilled land there in the year '67?
A Yes, sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year?
A About 20 or 25 acroes.
Q You were at home then with her? A Yes, sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you?
A A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
COMMISSIONER: of applicant: Did you draw money for Frances and Neely?
A Yes, sir.

The Kern-Clifton roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children identified thereon as follows:
Page 23, No. 568, Frances Adams, Delaware District.
Page 23, No. 569, Nealey Adams, Delaware District.

Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No, sir, she was too young they said.
Q These children all alive and living with you at this time?
A Yes, sir.

The 1880 Authenticated roll of the Freedmen of the Cherokee Nation examined and the name of applicant's wife is found thereon page 216, No. 44, Cora Adam, Delaware District.

Aaron Martin applies for the enrollment of himself and three children, Frances, Neely and Phoebe. His name is not found upon the authenticated roll of 1880, but is found upon the Kerns Clifton Roll. By reason of the fact that his name is not found upon the roll of 1880, and his citizenship is contested by the Cherokee Nation, his name will be placed upon a doubtful card. When the Commission arrives at a decision in his case, he will be notified by mail. He avers that his children, Frances, Neely and Phoebe, are the children of Cora Adams, his wife, and the name of Cora Adam is found upon the authenticated roll of 1880, and Frances and Neely, are identified on the Kern-Clifton pay roll. The name of Phoebe is not found upon any roll, having been born after the said rolls were compiled. They are all duly identified and make satisfactory proof as to residence, consequently Frances, Neely and Phoebe Martin will be duly listed for enrollment as Cherokee Freedmen. Their names appear upon the Kerns Clifton roll as Adams, but they are duly identified as the applicants. In order to complete the enrollment of Phoebe it will be necessary for him to file with the Commission satisfactory proof of birth of said Phoebe.

---oooOOOooo---

The Undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceeeings in this case, and that the foregoing is a full, true andcorrect transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 11th day of May, 1901.

(Signed) M. D. Green,
Notary Public.

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J. O. Rosson, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original transcript.

J. O. Rosson

Subscribed and sworn to before me this August 12th, 1901.

Commissioner.

DEPARTMENT OF JUSTICE
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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the Commission and to maintain that the Mississippi Valley Company is a good place to work in. Her husband is a good man and a good citizen. Her children are well and happy. Her husband is a good man and a good citizen. Her children are well and happy. Her husband is a good man and a good citizen. Her children are well and happy

To be filed with case of Israel Martin, C.F.-D.#307.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Eliza Gaines.
Q How old are you? A I don't know exactly how old.
Q Now, about how old? A I got it you can see it? (60)
Q What is your post office address? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A No, sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A Myself.
Q How many children? A They are on there? (Referring to paper.)
Q ~~How many children~~? ~~A xxxxxxxxxxxxxxxx~~
Q Children are all grown? A Yes, sir.

The 1880 Authenticated Roll of Citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 Census Roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q Did you draw what is known as the strip money? A yes, sir.

The Kern-Clifton Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee District.

BY MR. SMITH, of the firm of Smith & Mellette, Attorneys for Applicant.

Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Was he a Cherokee citizen? A No, sir, my Mistress was.
Q What was her name? A Charlotte Stover.
Q Where were you during the war? A With my Master.
Q Did you go out of the Nation? A Yes, sir.
Q When did you get back? A '66.
Q Do you remember what time in '66? A I come back in the fall of '66, near Christmas.
Q Where did you come to, what part of the Cherokee Nation?
A I come to Gibson.
Q Where do you live now? A I live at Timbered Hill now.
Q Have you a place there? A Yes, sir.
Q Farm? A Yes, sir.
Q Are you on the Kern-Clifton roll? A I guess I am on it, you will have to look to see.

BY MR. W. W. ~~XXXX~~ HASTINGS, Cherokee Representatife:
Q Whom did you come back to the Cherokee Nation with?
A I come back with John stover.
Q He brought you back? A Yes, sir, brought us to the Chickasaw Nation.
Q Did he die in the Chickasaw Nation? A Yes, sir.
Q He didn't com3 back here after the war? A No, sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation?
A Yes, sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.

Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.
Q You hired a wagon did you? A Yes, sir.
Q Do you remember the man's name you hired? A Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We stayed there about, we come in the fall before Christmas, stayed there until I got able to travel again.
Q About how long? A I guess it was about nearly over six months, a year; we stayed there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A Yes, sir, and the children.
Q What children did you have at that time? A I had Julia and ~~Georgia~~ Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes, sir.
Q Who did you work for at Fort Gibson? A I washed for the soldiers
Q And where did you go from Fort Gibson? A I stayed there about a year and come up about Mr. Bells.
Q Mr. Hooley Bell? A yes, sir.
Q Where was he living at that time? A I can't tell you, but it was somewheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A Yes, sir.
Q How long did you stay with Hooley Bell? A Stayed until along in the fall.
Q You stayed there from the summer until the fall? A Yes, sir.
Q About six or eight months? A Yes, sir.
Q And that must have been the fall of 1867 when you stayed up at Hooley Bell's? A I don't know.
Q Now, where did you go? A I went to Chetopa and stayed there.
Q Chetopa, Kansas? A Yes, sir, right across the line.
Q You didn't go into the State of Kansas? A No, sir.
Q You only went up near Chetopa on the Cherokee side?
A Yes, sir, on what they call.
Q Now whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A We stayed there a long time.
Q A number of years? A Yes, sir, until we moved down here.
Q Until you moved where you live now? A Yes, sir.
Q After you left Hooley Bell's place you went up to Larkins place?
A Yes, sir.
Q Are any of Mr. Larkins folks alive now? A Not as I know of.
Q He had a family did he? Yes, sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation?
A I don't know, he hired us to work.
Q Have you ever lived in Kanwas since the war? A No, sir.
Q You never went up there at all? A No, sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A Yes, sir; I don't live there now, I live on Timbered Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket?
A Yes, sir.
Q What direction is that? Is it on the Cooweescoowee side?
A Yes, sir
Q Towards the sunset from Bluejacket? Q Yes, sir.
Q Did your sister go with you all these rounds you were talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You stayed about three or four years at the Larkins place?
A Yes, sir.
Q Did you have any nishgobrs around there? A There was no neigh-

bors but one family.
Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A Yes, sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A Yes, sir.
Q South of Chetopa? A Yes, sir.
Q Were you living there when the railroad come there? A No, sir, wasn't no railroad, livintg there long before the railroad was built.
Q You were living there when the railroad was built? A Yes, sir, there wasn't no houses when the rai lroad come through.
Q Were you living at Larkins when the railroad come there?
A Yes, sir.
Q Now, Aunty, how far from the railroad track, the M. K. & T., were you living? A I don't know, we could not hear the train.
Q On the south of the track? A That was on this side of the track, overin Cooweescoowee.

BY MR. SMITH:

Q Who are your children? A John Henry.
Q John Henry what? A John Henry Nash, Julia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? (No response.)
Q You don't mean that any of those whose names you give are dead?
A No, sir.
Q Do they go by this name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carris Harrison.
Q Are they here? A There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant, sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Chambers.
Q How old are you, Mr. Chambers? A 78.
Q What is your post office address? A Hudson.

BY MR. SMITH:

Q Do you know Eliza Nash or Eliza Gaines? A Yes, sir.
Q How long have you known her? A Well, I have known her somewheres about in '66.
Q Where did you know her? A When I first known her she was at, my first knowning her, I seen her at Fort Gibson.
Q Are you a Freedman? A Yes, sir.
Q Are you on the 1880 roll, or not? A Yes, sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A No, sir; Yes, sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes, sir.
Q Do you remember when you got back to the Cherokee Nation?
A Yes, sir.
Q When was it? A I come back in '65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines?

A Well I come back in, along in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter, about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back? A Along in the summer, spring-like.
Q Of 1865? A Yes, sir.
Q And the following winter? A No, it was the year we called there, that winter, and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes, sir.
Q Do you know her children, know what their names are all of them, or not? A No, sir; I don't know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.

BY W. W. HASTINGS:

Q Did you see her there then the one time, Mr. Chambers?
A No, sir, I seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer?
A Yes, sir, after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes, sir, I am postivie I saw her there.
Q Are you positive about the year you saw her? A It is the same winter after I come there; you see I stayed there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A Yes, sir, that winter I seen her.
Q You know that? A Yes, sir, I know that to be fact.
Q You come, here you say in the spring or summer of 1865?
A Yes, sir
Q And say it was thenext winter you saw her? A Yes, wir, I stayed that summer there at Fort Smith in the bottom, understand me right; I stayed there that summer in the bottom and that winter I come up to see my old folks who raiwed me; well that fall I stayed there all fall and that fall I went down to Gibson, riding about as usual and stayed around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bundh? A Yes, sir.
Q You remember seeing her? A Yes, sir.
Q Well when did you next see her? A I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose Store? A I can't call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, don't you recall
Q I wasn not there. A There at fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You don't know where she had been in the meantime? A No, sir; but I don't think she had been anywhere butm I heard of her living up by William Tucker's.
Q You never did see her up there? A No, sir
Q Have you ever been arrested? A Yes, sir.
Q What for? A For several things.
Q How many times? A Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What Court? A Cherokee; arrested one time by the United States Court.
Q What for? A For shooting at a man.
Q What was done with you? A Never done anything with me.

Q Did they try you? A Yes, sir, never done anything.
Q What did they do with you in the Cherokee Court? A Nothing, turned me aloose and let me go home.
Q Never was x convicted? A No, sir.
Q You don't remember seeing anybody but this woman in 1866?
A Oh, I seen lots others.
Q I mean of her family? A If I did I didn't know 'em.

JAMES ALBERTY, being sworn and exa ined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James Alberty.
Q What is your post office address? A Chouteau.
Q How old are you, James? A I am near 70 or older, I don't know.
Q Are you a citizen of the Cherokee Nation? A Yes, sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No, sir.

BY MR. SMITH:

Q Do you know Eliza Gaines? A Yes, sir.
Q Sometimes called Nash? A I know her.
Q How long have you known her? A I don,t know how long, I known her when she was with her old Master, I don,t know how long that has been.
Q Who was that? A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes, sir, south.
Q When did you return to the Cherokee Nation?
A I rexturned in '66, before the Treaty was made.
Q Did you know where Eliza Nash was at that time?
(No response.)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A At Gibson.
Q When? A In '66.
Q Can you state at what time it was? A In the fall.
Q Did you know any of her family, any of her children?
A No, sir, I could not tell anything about them.
Q Did you know her sister? A Yes, sir.
Q What was her sister's name? A Lydia was one and Jane she was one and if I don,t mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A Yes, sir.
Q Who did you see A Lydia, that I noticed.
Q That you remember? A Yes, sir.
Q Do you know of your own personal knowledge whether they, or any of them, went out of the Cherokee Nation and if so, when they came back? A No, sir; I don't know.

BY W. W. HASTINGS:

Q Whom did you belong to when the war broke out? A John Alberty.
Q John Alberty sold you out of here before the war?
A No, sir, he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war?
A Yes, sir, I never belonged to anyone else that I know of.
Q He never sold you out? A No, sir.
Q Where were you living when the war come up? A Right at Pryor Creek, right at the toll bridge.
Q Where was this woman living when the war come up? A At Stover's
Q How far was that from where you were living? A I trained horses right there by Wilson's.
Q Whom did you train horses for? A Trained horses for Jim Kewll.
Q What were you doing at Fort Gibson when you saw her there?
A Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A She was there ~~where she was~~ and washing, I don't know where she was living.
Q How do you happen to remember seeing her? A I stopped there where she was and talked with her.

Q Did you see her there just once? A The next time I saw her, ask me.
Q Where did you see her next? A On Cabin Creek.
Q Where is that? A I don't know which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place A Bill Tucker's.
Q On Cabin Creek? A Yes, sir.
Q When was that you saw her there? A I don't know, it may have been a year or maybe more.
Q She was living up there then? A Yes, sir, in the house not far from Mr. Tackers.
Q Where did you see her the next time? A Where she lives now.
Q About how ong was that after that? A I don' know.
Q She moved from where she livedon Cabin Creek to where she lives now? A Yes, sir.
Q West of Bluejacket? A Yes, sir, west of Bluejacket.
Q Him, were you ever tried for anything by the Courts?
A No, sir.
Q Never was arrested? A No,sir, not by Courts, I was not.
Q By Marshalls A No, sir, I used to be a Marshall myself, I never was arrested for any crime of any kind, never was.

COM'R NEEDLES: Eliza Gaines applies for the enrollment of herself as a Cherokee Freedman. Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this Commission except the Kern-Clifton roll, and her name is found thereon according to the page and number ~~of the~~ as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration of the Commission. The final decision of the Commission will be made known to the applicant at herpost office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 12th of August, 1901.

Commissioner.

'Commissioner,

'JOC' 'JANUA 10 APR 1931 and you are asked to point out what has happened

Superintendent of Police

noise thereof.

'Interfering is a true and combustible fire and the testimony of the witnesses recorded by the accused in the proceedings and the Commission to the Lighter Government of the case.'

'I O. Goan', point that quite a strong Advocate, the Commission, after hearing the evidence, be asked to be so kind as to give the witness the opportunity of the Commission to the witness mentioned therein, which be will be a matter of the witness to assume the witness to be called to the witness as a matter of the witness, the witness, the witness,

To be filed with the case of Israel Martin, C. F.-D.#307.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 9th, 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A Bluejacket.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes,sir.
Q Who do you desire to enroll besides yourself? A I got three children.
Q What are the names of your children? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A 14.
Q The next one? A Leo:
Q How old is Leo? A 13.
Q The next one? A Morrison.
Q Howold is Morrison? A Ten.
Q Is that all? A Yes, sir.
Q What is your wife's name? A Bell Thompson.
Q Is she a citizen? A No, sir.
Q Is she the mother of these children? A Yes, sir.
Q What was her father's name? A Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe?
A No, sir.
Q Have you ever been recognizedby the Cherokee authorities as a Freedman? (No response.)
Q Kinda hald way? A Yes, sir, just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Is it on the Kern-Clifton roll? A Yes, sir.
Q Were you married to Bell Thompson? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Have you any proof of marriage? A Yes, sir.
Q Whom can you prove your marriage by? A Her sisters.
Q Are they here? A Yes, sir.

JOHN NASH, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Nash.
Q What is your age? A 35.
Q What is your post office address? A Bluejacket.
Q Do you know Berry Thompson? A yes, sir.
Q Do you kno3 his wife, Bell? A Yes, sir.
Q Do you know whether they were married or not?
A Yes, sir, they were married.
Q How do you know? A Old man Bluejacket married them.
Q Did you see him marry them? A Yes, sir.
Q Was Bluejacket a minister? A Yes, sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A Yes, sir.
Q Is Beel Thompson living now, his wife? A Yes, sir.
Q Did they have any children? A Yes, sir, three.
Q Born to th m while they were living together as man and wife?
A Yes, sir.
Q What is the names of them do you recollect? A Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, recalled, testified as follows: EXAMINATION BY MR. SMITH, of the firm of Smith & Mellette Attorneys for Applicants.

Q How old did you say you are, Berry? A 46.
Q Were you a slave? A Yes, sir.
Q Who was your owner? A John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation, during the war? A Yes, sir.
Q By whom were you taken out? A My Master.
Q When did you return? A I come back when she did, '66.
Q When who did? A My sister, Eliza.
Q When your sister, Eliza Gaines, retirned? A Yes, sir.
Q Have you a farm? A Yes, sir.
Q Where is it? A It is three miles west of Bluejacket.
Q, How long have you had it? A About 15 years.
Q You say you are on the Kern-Clifton roll? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative.

Q Where were you married? A I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You had heard the statemant of your sister, Eliza and sister, Jane; did you go the rounds with them? A Yes, sir:
Q Did you ever live in Kansas? A I worked up there.
Q Where? A I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A About twenty miles.
Q How long did you work up there? A I workedup there off and on, cooked; I was up there three months I guess.
Q You were marriedin the Nation? A Yes, sir.
Q Did you make your home with your sister before your marriage?
A I worked out a good deal of the time, worked at Vinta some, I lived with my mother.
Q What was your mother's name? A May Stover.
Q Did she come back from Texas with you? A Yes, sir.
Q With your two sisters too? A Yes, sir.
Q Your mother was along too? A Yes, sir.
Q Is your mother alive? A No, sir.
Q Where did she die? A She died up at Timbered Hill.
Q About how long ago? A About 13 years.
Q You made your home with her until she died? A Yes, sir.

BY MR. SMITH:

Q Where was it your mother died? A She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not?
A I don't know for sure whether she was or not?
Q How long has it been since she died? A About 13 years.

The 1880 Authenticated Roll of Cherokee Freedmen examined and applicant's name not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 162, #4008, Jerry Thompson, Cooweescoowee District.
Page 162, #4009, Elmer Thompson, Cooweescoowee District.
Page 162, #4010, Lee Thompson, Cooweescoowee District.
Page 162, #4011, Morrison Thompson, Cooweescoowee Dist.

COM'R NEEDLES:--Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of

Berry Thompson, et al. -3.

1880, nor the census roll of 1896. His name is found upon the Kern-Clifton pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the Counsel in this case, the record in the case of Eliza Gaines, D.#220, is referred to and made part of the record in this case. The names of Berry Thompson and his three children, as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 12th of August, 1901.

,Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUN 7 1901

ACTING CHAIRMAN.

Marriage Certificate
Chelsea Ind Ter.

August 18th 1881.

This certifies that Israel Martin a citizen of the Cherokee Nation and Lizzie Nash a citizen of C.N. were duly united in the holy bonds of matrimony on this 18th day of August, in the Year of our Lord one thousand eight hundred and eighty one

Witnesses | Mary Downing
Margaret Robertson

Sam Webber a Minister of the gospel.

DEPARTMENT OF JUSTICE
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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File with case of Israel Martin, et al., C.F.-D.#307.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE bei ng duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near w here Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, si r, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there i n '82.
Q Well, were you over the country where they located there, where their ~~xxxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Ti mbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquaint ed with Eliza Gai nes? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquaint ed with them when they first came up there about Bluejacket or not, do you? A I could not state positi ve when they came there at the exact time, I know there was none living there at the time I was putting, assi ted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the wor ld about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place? A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I beliebe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eigh miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 yearsold.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When,& if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q when you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher swasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1862?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~[illegible]~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to September.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn't nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT:
Witness: L. B. Bell; 62; Vinita.
Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time they got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there; in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.
MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the w ar, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/
Subscribed and sworn to before me this September 11th, 1389.
John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1389, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 317
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 515
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

POOR ORIGINAL -
BEST AVAILABLE COPY

filed with the Commission showing the birth of George and Julia Johnson; by Eliza Groves for herself and minor children, Martha, Dora, Peter W., Lorretha and Ennis Groves; by Berry Nash for himself; by Edward Nash for himself; by Carrie Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Laura and Lottie Martin; by Nellie Brown for herself and minor children, Louis, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Anna Armstrong, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah E. Tucker; by Lydia Carter for herself; by Allie Holiday, for herself and minor child, Otta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Eliza Grimes, Jane Webb, Berry Nash, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Ann and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1866 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Hunter is the daughter of Lucy Hunter, sister of Eliza Grimes, one of said principal applicants, and claims right to enrollment through her; that the said Lucy Hunter was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin was duly identified in the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of said territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in October, 1901; and that the applicant, Eliza Groves, died in October, 1901; and that the applicant, Ennis Groves, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed on September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Dixie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Ivy Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Nona Grooms, Peter M. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Jones, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Michael Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Minnie Brown, Jesse Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McIlroy, Etta Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Dec 1-1906.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

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1918
4174
SEC. OF CIVILIZED TRIBES

AUG 10 1918

WASHINGTON, ..., 191

I, E. B. Meritt, Assistant, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true copies of the originals as the same appear on file in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

E B Meritt

Assistant Commissioner.

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FD807

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. Israel Martin,
Ruby, I. T.
Cherokee F-7-307.
Register.

Cherokee T. D-200
et al.

Muskogee, Indian Territory, September 9,1903

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 9,1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Louretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper, as Cherokee freedmen and dismissing the applications for the enrollment of George Johnson, and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby.

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse M. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lewretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. ADDLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

Cherokee Freedmen
D-307.

Muskogee, Indian Territory, September 30, 1903.

Israel Martin,

Ruby, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself, your wife Lizzie, and your minor children, Maggie, Louis, Laura and Lottie Martin, as Cherokee freedmen, together with a copy of the Commission's decision dated September 5, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Register.
Enc. D-89

Refer in reply to
the following:
LAND
63878-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Derry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Hames and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed in the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Hames is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dawson, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Greene, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is [illegible] Webb and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904.
ITD 833-1904.
L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
WHR.

April 4, 1904.

Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-307.

Muskogee, Indian Territory, April 18, 1904.

Israel Martin,

Ruby, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself, your wife, Lizzie Martin, and your minor children, Maggie, Louis, Laura and Lottie Martin, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-330, et al.

Muskogee, Indian Territory, April 16, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Haines et al., granting the applications for the enrollment of Eliza Haines, Jane Webb, Mary and Frank Mabry, Harry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Mary Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Lauretha Crooms, Harry and Edward Nash, Carrie and Delilah Harris, Ella Jones, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Georgie, Louis, Laura and Lottie Martin, Nellie, Roxie, Jesse, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah E. Tucker, Clem Martin, Anna and Henrietta Dean, Lydia Carter, Allie McElroy, Etta Taylor, and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ----------Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Kheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Ray Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Harry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Brown, Lena
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Marie Brown,
3593	Josee Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Herbert Brown,
3598	Clara Martin,
3599	Mary Jane,
3600	Henrietta Jones,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah E. Tucker,
3604	Lydia Carter,
3605	Alice Jones,
3606	Etta Taylor,
3607	Robert Harper,
3608	Mary Robbins,
3609	Willie Robert,
3610	Sherman Jones,
3611	Houston West,
3612	Ida West,
3613	Fancy West,
3614	Fannie West,
3615	Georgie West,
3616	William West,
3617	George West,
3618	George West, Jr.,
3619	Jessie West,
3620	Albertha West,
3621	Collie West,
3622	Carlin West,
4011	Henry West,
4012	Collie West, Jr.,
4013	Cornelius West,
4014	Charlie West,
4015	Carrie West,
4016	Ella West,
4017	Walter West,
4018	Walter West,
4019	Carrie West,

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28,1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "To review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll?

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905, (Land 38933-1905) and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3876 to 3879, inclusive, be granted.

Prior to the filing of this motion to review applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. R-40

Commissioner

COPY

Land
106484-1906.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 26, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, to review and reject the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 8, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the department september 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on september 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was december 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to september 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee Commission on citizenship in september 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war: that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Caines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the civil war. It appears that James Albery has appeared as a witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the Attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1298

COPY

Muskogee, Indian Territory, March 7, 1907.

Israel Martin,

Ruby, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl.H-21
JMH

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby
Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13,1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedmen 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John W. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedman 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

WWP

Commissioner.

D.C.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T.
47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1299.

Muskogee, Indian Territory, June 8, 1907.

Israel Martin,

Ruby, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself, wife and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-18.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental motion of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Land-Five Tribes
60258-18
J E D

1171

In re copies of
birth affidavits in certain
Cherokee enrollment cases.

AUG 10 1918

Mr. Gabe E. Parker,

Supt., Five Civilized Tribes.

My dear Mr. Parker:

Reference is made herein to a communication of July 16, 1918, from the Acting Superintendent for the Five Civilized Tribes, who requests, for the use of your office, certified copies of the birth affidavits filed in connection with the application for enrollment of Laura and Lettie Martin, Cherokee Freedmen enrollees Nos. 3589 and 3590, respectively.

In compliance with said request, certified copies of the above mentioned birth affidavits are transmitted herewith.

Very truly yours,

(Signed) E. B. Meritt
Assistant Commissioner.

SAR-7-30

Copy for the Superintendent
for the Five Civilized Tribes.

Cher Fr 1300

See Cher Fr 1294, 5-6-7-9-1301

Cher Fr 1300

DEPARTMENT OF THE INTER
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
17 1901

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 17, 1901.

In the matter of the application of Nellie Brown for the enrollment of herself and five children as Cherokee Freedmen.

Nellie Brown, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Nellie Martin.
Q How old are you? A Why I don't know my age exactly, about 36 years old.
Q What is your post office address? A Ruby.
Q Whatdistrict do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee citizen? A Yes, sir.
Q A Cherokee Freedman? A Yes, sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the rolls of 1880? A I don't know if it is or not.
Q Who do you want to enroll besides yourself? A Just my children.
Q How many children? A Five.
Q Give me the names of your children please? A Roxie, 8 years old.
Q The next child? A Moses, 5 years old.
Q The next child? A Jennie.
Q How old is Jennie? A 4 years old.
Q The next one? A William.
Q How old is William? A 2 years old.
Q The next one? A Michael.
Q How old is Michael? A 9 months old.
Q Five children? A Yes, sir.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Charlie Brown.
Q Then your name is Brown? A Yes, sir.
Q What did you say your name is Martin for? A I have been enrolled all the time as Martin.
Q Is your husband living? A Yes, sir.
Q Is he a citizen? A I don't know, he drew the Wallace money; I just apply for myself.
Q What is your father's name? A Aaron ~~Xxxxxxx~~ Martin.
Q What is your mother's name? A Queen ~~Xxxxxxx~~ Martin.
Q Is your mother living? A No, sir.
Q Is your father living? A Yes, sir.
Q Did you draw what is known as the strip payment money?
A Yes, sir, drew for me and one child.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.
The 1896 census roll of Cherokee Freedmen examined and the applicants not identified thereon.
The Kerns-Clifton roll examined, and the applicants identified thereon as follows:
Nellie Brown on page 119, No. 2956, Delaware district, as Nellie Martin.
Roxie Brown on page 119, No. 2957, Delaware district, as Rocksy Martin.

Q Where were you born, Nellie? A Born in the Cherokee Nation.
Q Have you always lived in the Cherokee Nation all your life?
A Yes, sir.
Q Are these children all living? A Yes, sir.
Q Well your citizenship then would depend upon the citizenship of your father, Aaron Martin? A Yes, sir.
Q Are these children all named Brown? A They goes by Martin.
Q What is their father's name? A Brown.
Q Well, they goes by Brown? A Yes, sir.
Q Charlie Brown is the father of all the children? A Yes, sir.

Nellie Brown - 2.

By L. B. Bell, Cherokee attorney: You are married to him? A Yes, sir.

Commissioner: Livin, with her? A Yes, sir.

Commissioner: Nellie Brown applies for the enrollment of herself and five children, to-wit, Roxie, Moses, Jennie, William and Michael Brown. Her name does not appear upon the authenticated roll of 1880, but she is fully identified upon the Kerns-Clifton roll, and the name of her oldest child Roxie is identified upon the Kerns-Clifton roll, as Nellie and Rocksy Martin. She avers that she is now married to one Charles Martin. She avers that she is the child of Aaron and Queen Martin. Her citizenship and that of her children depends upon the citizenship of her father and mother, who have already been enrolled upon D card 235. The testimony in the application of Aaron Martin for the enrollment taken upon Card D-235 is referred to and made part of the record in the application of Nellie Brown and her children, and copies of the same will be filed. Satisfactory testimony is given as to her residence; consequently, by reason of the fact that her name is not found upon the authenticated roll of 1880 and the further fact that her citizenship is contested by the Cherokee Nation, said Nellie Brown and her five children as enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card, awaiting further consideration of the Commission. She will be notified of the decision of the Commission when arrived at, by mail. From the fact that her four youngest children's names do not appear upon any roll, having been born after the roll was compiled, it will be necessary for her to file satisfactory proof of birth of the four youngest children.

****

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 17th day of May, 1901.

C. R. Breckinridge

Commissioner.

V. 8.319

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 16 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 16, 1906

Post Office Ruby, I.T.

District Coweta

1. Name Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Doubtful

1 f. Name of wife Nellie ~~Martin~~ Brown Age 26

Owners name Citizenship

Year K.B. Page 119 No. 2956 District Del

Parents:

Father Aaron Martin - living Citizenship

Mother Sallie " - dead Citizenship

Names of Children:

2.	Roxie	~~Martin~~ Brown	Year K.B.	Page 119	No. 2957	Dist. Del	8
3.	Moses	"	Year —	Page —	No. —	Dist. —	5
4.	Jennie	"	Year —	Page —	No. —	Dist. —	4
5.	William	"	Year —	Page —	No. —	Dist. —	2
6.	Michael	"	Year —	Page —	No. —	Dist. —	mos
8.			Year	Page	No.	Dist.	
9.			Year	Page	No.	Dist.	
10.			Year	Page	No.	Dist.	
11.			Year	Page	No.	Dist.	
12.			Year	Page	No.	Dist.	

Doubtful

Application made by No. 1 Stenographer R.L. Jones

No. 1 on K.B. roll as Nellie Martin

No 2 " " " " Rocksy "

3, 4, 5 and 6, affidavits of birth, required.

X Rej D 253

CHEROKEE FREEDMAN, ~~D 314~~ -1300
20

IN RE

Application for Enrollment of

INFANT CHILD

Moses Brown

as a citizen of

CHEROKEE, Nation.

Approved, MAY 16 1901, 190..

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 16 1901

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the CHEROKEE Nation,

of Moses Brown (Here insert name of child), born on the 22nd day of Sept, 1895

Name of Father: Charlie Brown, a citizen of the Cherokee Nation.

Name of Mother: Nellie Brown, a citizen of the Cherokee Nation.

Post-office, Ruby I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Nellie Brown, on oath state that I am 26 years of age and a citizen, by adoption, of the Cherokee Nation; that I am the lawful wife of Charlie Brown, who is a citizen, by adoption, of the Cherokee Nation, that a male (male or female) child was born to me on the 22nd day of Sept. 1895; that said child has been named Moses Brown, and is now living.

Nellie X her mark Brown

WITNESSES TO MARK (Must be Two Witnesses): Moses Harrison, Dorsh Vann

Subscribed and sworn to before me this 16th *day of* May 1901.

G. F. Bailey
NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Lilly Browning, a midwife, on oath state that I attended on Mrs. Nellie Brown, wife of [illegible] Brown on the 22 day of Sept, 1895; that there was born to her on said date a male (male or female) child; that said child is now living and is said to have been named Moses Brown

Lilly X her mark Browning

WITNESSES TO MARK: (Must be Two Witnesses) Moses Harrison, Dorsh Vann

Subscribed and sworn to before me this 16th *day of* May 1901.

G. F. Bailey
NOTARY PUBLIC.

my born - Sept - April 15 - 1905

10 CHEROKEE FREEDMAN. D 319.

20

IN RE

Application for Enrollment of

INFANT CHILD

Jennie Brown

as a citizen of

CHEROKEE Nation.

Approved, MAY 16 1901 190..

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 16 1901

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the CHEROKEE Nation,

of Jennie Brown (Here insert name of child.) born on the 3rd day of March, 1896

Name of Father: Charlie Brown, a citizen of the Cherokee Nation.

Name of Mother: Nellie Brown, a citizen of the Cherokee Nation.

Post-office, Ruby I T

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Nellie Brown, on oath state that I am 26 years of age and a citizen, by adoption, of the Cherokee Nation; that I am the lawful wife of C. Brown, who is a citizen, by adoption, of the Cherokee Nation, that a Female (male or female) child was born to me on the 3rd day of March 1896 that said child has been named Jennie Brown, and is now living.

Nellie X her mark Brown

WITNESSES TO MARK (Must be Two Witnesses) Moses Hardrick, Dick Vann

Subscribed and sworn to before me this 16th *day of* May 1901.

G. F. Baines NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Lizzy Downing, a midwife, on oath state that I attended on Mrs. Nellie Brown, wife of Charlie Brown, on the 3rd day of March, 1896; that there was born to her on said date a Female (male or female) child; that said child is now living and is said to have been named Jennie Brown

Lizzy X her mark Downing

WITNESSES TO MARK: (Must be Two Witnesses) Moses Hardrick, Dick Vann.

Subscribed and sworn to before me this 16th *day of* May 1901.

G. F. B. NOTARY PUBLIC.

Exp - April 15 - 1903

CHEROKEE FREEDMAN. D 314.

20

IN RE

Application for Enrollment of

INFANT CHILD

William Brown

as a citizen of

CHEROKEE Nation.

Approved, MAY 16 1901 190

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 16 1901

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the CHEROKEE Nation,

of William Brown (Here insert name of child), born on the 25th day of Octo., 1898

Name of Father: Charlie Brown, a citizen of the Cherokee Nation.

Name of Mother: Nellie Brown, a citizen of the Cherokee Nation.

Post-office, Ruby I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Nellie Brown, on oath state that I am 26 years of age and a citizen, by adoption, of the Cherokee Nation; that I am the lawful wife of Charlie Brown, who is a citizen, by adoption, of the Cherokee Nation, that a Male (male or female) child was born to me on the 25th day of Octo. 1898 that said child has been named William Brown, and is now living.

Nellie X her mark Brown.

WITNESSES TO MARK (Must be Two Witnesses) Frank Hardrick, Dick Vann.

Subscribed and sworn to before me this 16th *day of* May 1901.

G. F. Bailey
NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Hilzy Downing, a midwife, on oath state that I attended on Mrs. N. Brown, wife of Charlie Brown on the 25th day of Octo., 1898 that there was born to her on said date a Male (male or female) child; that said child is now living and is said to have been named William Brown.

Hilzy X her mark Downing

WITNESSES TO MARK: (Must be Two Witnesses) Frank Hardrick, Dick Vann.

Subscribed and sworn to before me this 16th *day of* May 1901.

G. F. Bailey
NOTARY PUBLIC.

Enr. born - Sept - April 15 - 1903.

CHEROKEE FREEDMAN. D 319.

20

IN RE

Application for Enrollment of

INFANT CHILD

Michael Brown

as a citizen of

CHEROKEE Nation.

Approved, MAY 16 1901 190

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 16 1901

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the CHEROKEE Nation,

of Michael Brown (Here insert name of child), born on the 14th day of August, 1900

Name of Father: Charlie Brown, a citizen of the Cherokee Nation.

Name of Mother: Nellie Brown, a citizen of the Cherokee Nation.

Post-office, Ruby I T

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Nellie Brown, on oath state that I am 26 years of age and a citizen, by adoption, of the Cherokee Nation; that I am the lawful wife of Charlie Brown, who is a citizen, by adoption, of the Cherokee Nation, that a Male (male or female) child was born to me on the 14th day of August 1900, that said child has been named Michael Brown, and is now living.

Nellie her X mark Brown

WITNESSES TO MARK (Must be Two Witnesses)
Rose Hardrick
Nelzy Downing

Subscribed and sworn to before me this 16th *day of* May 1901.

G. F. Bailey
NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, Northern District.

I, Nelzy Downing, a midwife, on oath state that I attended on Mrs. Nellie Brown, wife of C[illegible] Brown, on the 14th day of August, 1900 that there was born to her on said date a Male (male or female) child; that said child is now living and is said to have been named Michael Brown.

Nelzy her X mark Downing

WITNESSES TO MARK: (Must be Two Witnesses)
Rose Hardrick
Rick V.

Subscribed and sworn to before me this 16 *day of* May 1901.

G. F. Bailey
NOTARY PUBLIC

born - Eff - april 152 1903

File with application of Nellie Brown, Doubtful Cherokee Freedman.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Aaron Martin.
Q How old are you, Aaron? A I guess about 67 or 68.
Q What is your postoffice address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 15.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Was her name Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation?
A No, sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

Q Did you receive your money known as the Cherokee strip money?
A Yes sir.

The Kerns Clifton Roll of the Freedman of the Cherokee Nation examined and the name of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

Q Aaron, were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866?
A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Cap Hicks and Andrew Frey.
W. Wh Hastings: Where did you come to when you come back? Z I come to Dr. Thompson's place over there to Grand River.
Q Are you a blacksmith? A No sir.
Q Another Martin is a blacksmith? A Yes sir.
Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
Q How long did you live at that place? A I stayed there until

along sometime about Christmas, I reckon; I went down to Cap Hicks' mother then.

Q About what time did you come down to the Cherokee Nation after the war - what time in '66? A It was some time in the fall.

Q You have lived there ever since? A Yes sir.

ANDREW FREY, being sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:

Q Is your name Andrew Frey? A Yes sir.

Q How old are you? A 66.

Q What is your postoffice? A Vinita.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Freedman? A Yes sir.

Q Do you know Aaron Martin? A Yes sir.

Q How long have you known him? A Why I don't know, sir, just exactly how long, ever since we were boys.

Q Was he a slave? A Yes, sir.

Q To whom did he belong? A He belonged to John Martin.

Q Do you know where Aaron Martin was in the year 1866? A Yes, sir.

Q Where? A He was over here across the river part of the year 1866.

Q In the Cherokee Nation? A Yes, sir.

Q Did he go out of the Cherokee Nation during the war? A Yes sir

Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.

Q Did he return? A Yes sir.

Q In what year? A In '66.

Q Are you any relation to him? A No sir.

Q Was he married at that time? A Yes sir.

Q Was his family with him? A Yes sir.

Q Did his family return with him? A Yes sir.

Q Were you a slave? A Yes sir.

Q To whom did you belong? A I belonged to Mary Clark.

Q Were you in Kansas with Aaron Martin? A Yes sir.

Q Did you return with him? A Yes sir.

A Have you known Aaron Martin well since that time? A Yes sir.

Q Has he lived in the Cherokee Nation since? A Yes sir.

W. W. Hastings: You say he come back with you? A Yes sir.

Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a big crowd of us.

Q Well, name some of the rest of them? A Peter Williams.

Q Anybody else? A Tobe Schrimsher, Jake Martin's family.

Q Anybody else? A I don't know who else.

Q That is all you can remember? A Yes sir.

Q What time in the year did he come back? A He come back - we got back over to Dr. Thompson'splace the 3rd of October, '66.

Q Any colored folks there when you got there? A No one at all.

Q You are positive about that, are you? A Yes sir, no one at all there.

Q That was in October, '66? A Yes sir.

L. B. Bell: Who got back there first, you or Judge Daniels' family?

A Me.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:

Q What is your name? A Filmore Hicks.

Q What is your age? A 53.

Q What is your postoffice address? A Vinita now.

Q Are you a citizen of the Cherokee Nation? A Yes sir.

Q By blood? A Yes sir.

Q Do you know the applicant, Aaron Martin? A Yes sir.

Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.

Q Was he a slave? A Yes, sir, I suppose he was.

Q Who did he belong to? A John Martin.

Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighberhood.

Q When did you first see Aaron Martin after the war? A Late in the fall of '66.

Q Where at? A At my mother's.

Q Have you known him since that? A Known him ever since.

Q Has he always lived in the Cherokee Nation since that? A Yes sir.

Q Did he have a family at that time? A Yes sir.

Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.

Q He rented some land? A Yes sir.

Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.

W. W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.

Q Did you ever have a rented after you had this fellow? A No, we had some hired hand, not any renter.

Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three quarters of a mile.

Q Opposite the mouth? A Just below a little on the other side of the river.

Q Your mother had a farm there that year? A Yes sir.

Q Are you positive this man tilled land there in the year '67?

A Yes sir.

Q Do you know what he cultivated? A He put in corn.

Q About what size farm did your mother havethat year? A About 20 or 25 acres.

Q You were at home then with her? A Yes sir.

Q What was your age then? A 17 or 18.

Q Did your mother have any other help besides you? A A boy older than I am and two younger than I am.

Q You never helped to cultivate that place that year? A Not much.

Commissioner of Applicant: Did you draw money for Frances and Neely?

A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:

Page 23, No. 568, Frances Adams, Delaware District;
Page 23, No. 569, Nealey Adams, Delaware District.

Q Are their names Adams or Martin? A Martin is their name.

Q You didn't draw any money for Phoebe? A No sir, she was too young they said.

Q These children all alive and living with you at that time?

A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicants wife is found on page 216, No. 44, Cora Adams, Delaware District.

Aaron Martin applies for the enrollment of himself and three children, Frances, Neely, and Phoebe. His name is not found upon the authenticated roll of 1880, but is found upon the Kerns Clifton Roll. By reason of the fact that his name is not found upon the roll of 1880, and his citizenship is contested by the Cherokee Nation, his name will be placed upon a doubtful card. When the Commission arrives at a decision in his case, he will be notified by mail. He avers that his children, Frances, Neely and Phoebe, are the children of Cora Adams, his wife, and the name of Cora Adams is found upon the authenticated roll of 1880, and Frances and Neely are

identified on the Kerns Clifton Pay Roll. The name of Phoebe is not found upon my roll, having been born after the said rolls were compiled. They are all duly identified and make satisfactory proof as to residence, consequently, Frances, Neely, and Phoebe Martin will be duly listedfor enrollment as Cherokee Freedmen. Their names appear upon the Kerns Clifton Roll as Adams, but they are duly identified as the applicants. In order to complete the enrollment of Phoebe, it will be necessary for him to file with the Commission satisfactory proof of birth of said Phoebe.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Signed, N. C. Rothernberger.

Subscribed and sworn to before me this 11th day of May, 1901.

Signed, M. D. Green,

(Seal) Notary Public.

****

Bruce C. Jones, stenographer to the Commission to the Five Civilized Tribes, being duly sworn, says that he copied the foregoing, and that the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 17th of July, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR?
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 515
Harriett Tucker et al	Cherokee Freedmen D 597
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Bonie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Olin and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

POOR ORIGINAL -
BEST AVAILABLE COPY

filed with the Commission showing the birth of George and Julia Johnson; by Ellis Groves for herself and minor children, Martha, Dora, Peter W., Lemrethe and Ennis Groves; by Perry Nash for himself; by Howard Nash for himself; by Carris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunes, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Howard Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Bonie, Laura and Lottie Martin; by Nellie Brown for herself and minor children, Bonie, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Anna Shumbean, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lydia Carter for herself; by Allie Holiday, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellis Groves, Jane Webb, Perry Nash, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Johnson and Georgia Hunes are the principal applicants herein; and that all the other applicants in these several cases have been born since 1866 and, with the exception of Ella Hunes and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1866.

The evidence further shows that Ella Hunes is the daughter of Rose Hunes, sister of Ellis Groves, one of said principal applicants, and claims right to enrollment through her; that the said Rose Hunes was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19,1866.

The said Alice Martin was duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28,1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in October, 1900, and that the applicant, Ellis Groves, died in October, 1900, and that the applicant, Ennis Groves, died in August,1902.

Section Twenty-five of the Act of Congress approved July 1, 1902,(32 Stats.,716),provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Lucie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Melinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Tona Grooms, Peter W. Grooms, Teuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hines, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Barnett Tucker, Glen Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Ruth Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Dec. 1-1906.

H
440314

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Nellie Brown,
Baby, I. T.
Cherokee-D-313.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F. 1-210
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Henry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Groomes as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby,

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Centralia Jones, John T. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Linnie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

POOR ORIGINAL -
BEST AVAILABLE COPY

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah L. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. ADDOLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedmen
D-319.

Muskogee, Indian Territory, September 30, 1903

Nellie Brown,

Ruby, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself and minor children, Roxie, Moses, Jennie, William and Michael Brown, as Cherokee freedmen, together with a copy of the Commission's decision dated September 5, 1903, granting, among others your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Chairman.

Register.
Enc. D-90

Refer in reply to
the following:
LAND
63677-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the ~~Five~~ Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Lellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Patterson, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 will as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Gesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904.

ITD 833-1904.

L.R.S.

COPY.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

J.P.

WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-319.

Muskogee, Indian Territory, April 18, 1904.

Nellie Brown,

Ruby, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor children, Roxie, Moses, Jennie, William and Michael Brown, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220, et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Haines et al., granting the applications for the enrollment of Eliza Haines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Louretha Crooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Hames, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louie, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor, and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

COPY. Cherokee Freedmen

D-319.

Muskogee, Indian Territory, August 18, 1904.

William Martin,

Catoosa, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 23, 1904, in the consolidated case of Jane Claggett, et al., granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

You are advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished Jane Claggett, Nowata, Indian Territory, by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is in-

formed of the same.

Respectfully,

Tams Bixby.

Commissioner in Charge.

Chairman.

Encl. S-96.

Register.

Cherokee Freedmen
D-303-315-31[illegible]-798

COPY.

Muskogee, Indian Territory, August 19, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Jane Clagrett, et al., including the Commission's decision, dated July 23, 1904, granting the applications for the enrollment of Jane [illegible] E. Clagrett, Elliott Martin, [illegible], Jane, William [illegible] Priscilla Barnes and Wade, Richard [illegible] Minerva Irven as Cherokee Freedmen.

You are advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest is enclosed.

Respectfully,

Tams Bixby.
Chairman.

Encl. S-100.

Through the

Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callis West,
F-1417 ---------- Callis West,
F-1494 ----------Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh R. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3588 ----------	Lizzie Martin,
3587 ----------	Fannie Martin,
3586 ----------	Lewis Martin,
3585 ----------	Laura Martin,
3580 ----------	Lillie Martin,
3581 ----------	Felix Brown,
3582 ----------	Lizzie Brown,
3583 ----------	Moses Brown,
3584 ----------	Jennie Brown,
3585 ----------	William Brown,
3586 ----------	Samuel Brown,
3587 ----------	Harriet Tucker,
3588 ----------	Alex Martin,
3589 ----------	Mary Green,
3590 ----------	Annietta Bear,
3591 ----------	George Tucker,
3592 ----------	Floyd Tucker,
3593 ----------	Sarah E. Tucker,
3594 ----------	Lydia Carter,
3595 ----------	Alice Robinson,
3596 ----------	Etta Taylor,
3597 ----------	Robert Harper,
3598 ----------	Mary Robbins,
3599 ----------	Willie Rogers,
3600 ----------	Spencer Jones,
3601 ----------	Hanson West,
3602 ----------	Ida West,
3603 ----------	Nancy West,
3604 ----------	Fannie West,
3605 ----------	Georgia West,
3606 ----------	William West,
3607 ----------	George West,
3608 ----------	George West, Jr.,
3609 ----------	Jennie West,
3610 ----------	Albertha West,
3611 ----------	Willie West,
3612 ----------	Willie West,
3613 ----------	Henry West,
3614 ----------	Willie West, Jr.,
3615 ----------	Cornelius West,
3616 ----------	Charlie West,
3617 ----------	Charlie West,
3618 ----------	Alex West,
3619 ----------	James West,
3620 ----------	Walter West,
3621 ----------	Hattie West,

POOR ORIGINAL -
BEST AVAILABLE COPY

Roll No.	Name.
4088 ----------	Martha West,
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28,1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "To review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1832, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll?

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905, (Land 58933-1905) and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 6, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-40

Commissioner

COPY

Land
106486-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

Freedmen approved by the Department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his dea death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship in September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The prinicpal applicants claim that they were sl ves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the civil war: that they left the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testifying that he was a slave of a Cherokee citizen at the breaking out of the war of the rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the civil war. It appears that James Albery has appeared as a witness in Cherokee freedmen cases numerous times, and that his evidence taken at different hearings is so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1906; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by the attorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWR-W

VPJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106488-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Caines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1300

COPY

Muskogee, Indian Territory, March 7, 1907.

Nellie Brown,

Ruby, Indian Territory.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby,

JMH

Commissioner.

Cherokee P.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.H-21
JMH

Cherokee F
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby,
Commissioner.

Encl.H-20
JMH

Cherokee F
1281 et al.

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl.H-20
JMH

Commissioner.

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedman 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedmen 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907.

DEPARTMENT OF THE INTERIOR, GAW

I.T.
47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1300

Muskogee, Indian Territory, June 8, 1907.

Nellie Brown,

Ruby, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and children as Cherokee freedmen was denied by the Department May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-19.
S.W.

Acting Commissioner.

Cherokee
F 1881 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1301

See Cher Fr 1294-5-6-7-9-100

Cher Fr 1301

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Chelsea, I. T., June 11, 1901.

In the matter of the application of Harriett Tucker for the enrollment of herself and five children as Cherokee Freedmen.

Harriett Tucker, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Harriett Tucker.
Q How old are you? A 32.
Q What is your post-office address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Myself and five children.
Q What are the names of your children? A Clem.
Q How old is Clem? A 15 years old.
Q The next child? A Emma.
Q How old is Emma? A Emma is 10, going on 11.
Q What is the next one? A Henrietta.
Q How old is Henrietta? A 6.
Q What is the next one? A George.
Q How old is George? A George is 4.
Q What is the next one? A Floyd.
Q How old is Floyd? A 2 years old.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Dan Tucker.
Q Is he a citizen? A Yes, sir, says he is.
Q Has he been enrolled? A No, sir.
Q He is what is known as a claimant? A Yes, sir.
Q Is he here? A No, sir.
Q You don't want to apply for him, do you? A No, sir.
Q What is your father's name? A Aaron Martin.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Queen Martin.
Q Is she living? A No, sir.
Q Is your name on the roll of 1880? A Yes, sir.
Q You are sure your name is on the 1880 roll? A No sir, I am not there.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes, sir, it is on the Clifton and Wallace roll.

The 1880 authenticated roll of Cherokee Freedman examined and the applicants not identified thereon;

The 1896 census roll of Cherokee Freedmen examined, and the applicants not identified thereon.

The Kern-Clifton roll examined, and the applicants identified thereon as follows:

Harriett Tucker on page 119, No. 2953, Delaware district, as Harriett Martin;

Clem Tucker on page 119, No. 2954, Delaware District, as Clemmie Martin;

Emma Tucker on page 119, No. 2955, Delaware district, as Emma Bean.

Q What is Henrietta's name? A Henrietta Bean.
Q You didn't draw for her? A No, sir.
Q How does this girl Emma happen to be Bean? A My first husband was a Bean.

Q What was your second husband's name? A Dan Tucker.
Q Henrietta's name now is Tucker? A Henrietta Bean.
Q What is George's name? A George Tucker.
Q What is Floyd's name? A Floyd Tucker.
Q You said his name was Clem Martin, didn't you? A Yes, sir.
Q What proof have you got of your citizenship? Your name isn't on the roll of 1880? Got any witnesses? A Yes, sir, Cap Hicks, the roll of 1880. Got any witnesses? A Yes, sir, Cap Hicks.
Q Is Queen Martin your mother? A yes, sir.
Q Is she living? A No, sir.
Q Your father's name Aaron? A Yes, sir.
Q He living? A Yes, sir.
Q Has he been here yet? A yes, sir.
Q Are these children all living at this time? A Yes, sir.
Q Always lived in the Cherokee Nation? A yes, sir.
Q Born in the Cherokee Nation? A yes, sir.
Q How long have you lived in the Cherokee Nation? A All my life, I was born here.
Q Born and raised here? A Yes, sir.
Q Are your father and mother, either of them, on the roll of 1880, to your knowledge? A No, sir.
Mr. J. S. Davenport, of counsel for Cherokee Nation: You say you have lived in the Cherokee Nation all your life? A Yes, sir.
Commissioner: Your mother, Queen Martin, you say is dead? A Yes, sir.
Q How long has she been dead? A She has been dead about 15 years as near as I can come it.
Q Do you know Frances Martin? A The child, yes, sir.
Q Is she the full sister of yours? A No, sir.
Q What was her mother's name? A Cora Martin.
Q Was your mother a freedman? A yes, sir.
Q Her name on the roll of 1880? A I don't know sir.
Q How long has your mother been dead? A About 15 years I guess.

The 1880 authenticated roll of Cherokee Freedmen examined, and the name of Queen Martin not found thereon.

Q What was her name before she married your father? A Her father was Reuben Downing.
Q But you are 32 years old? A yes, sir, they were married before the war.

Q Queen was your father's first wife? A yes, sir.
Q Have any of your full brothers or sisters applied here? A All of them but me.
Q Give me the names of some of them? A July, that is the oldest one.
Q Give me a brother? A Got a brother Ben? A No, sir, got a brother George.
Q Who is Sarah A. Martin? A That is my aunt.

Commissioner: Harriett Tucker applies for the enrollment of herself and five children, to-wit: Clem Martin, Emma Bean, Henrietta Bean, George Tucker, and Floyd Tucker. She avers that she is the child of Aaron and Queen Martin. Her name is not found upon the authenticated roll, but she and her two oldest children are duly identified upon the Kern-Clifton roll. It will be necessary for her to file satisfactory proof of birth as to Henrietta, George, and Floyd, their names not appearing upon any roll. She avers that she was first married to one Bean, who was the father of her children Emma and Henrietta, and that her present husband, Tucker, is the father of her two youngest children. Clem appears to have been born before she was married. She makes satisfactory proof as to residence. Her father, Aaron Martin, is listed for enrollment on D card

238. Reference is made to the testimony in the case of said Aaron Martin, and it will be made part of the testimony in the case at bar, and a copy thereof filed herewith. She and her children will be duly listed for enrollment as Cherokee Freedman on a doubtful card. She will be notified of the decision of the Commission when arrived at.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Bruce C. Jones

Sworn to and subscribed before me this the 21st day of June, 1901.

Signed T. B. Needles
Commissioner.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians and the disposition of the land of said tribes, and that the above and foregoing is a true and correct copy of testimony taken at Chelsea, Indian Territory, on June 11, 1901, in the matter of the application of Harriett Tucker for the enrollment of herself and five children as Cherokee Freedmen.

Muskogee, Oklahoma,

F.D. 697

FILED
JUN 1 1901

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date JUN 11 1901

Post Office [illegible]

District [illegible]

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

11. Name of wife [illegible] Age 32

Owner's name ..... Citizenship .....

Year [illegible] Page [illegible] No. [illegible] District [illegible]

Parents:

Father [illegible] Citizenship .....

Mother [illegible] Citizenship .....

Names of Children:

2. [illegible] Martin Year [illegible] Page [illegible] No. [illegible] Dist. [illegible] 5
3. [illegible] Bean Year " Page [illegible] No. [illegible] Dist. " 2
4. [illegible] " Year " Page — No. — Dist. — 6
5. [illegible] Tucker Year — Page — No. — Dist. — [illegible]
6. [illegible] " Year — Page — No. — Dist. — 2
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by ..... Stenographer [illegible]

1 [illegible] [illegible]
2 " " " [illegible]
3 " " " " [illegible]
4 [illegible] [illegible]

[illegible] 10235

Instrument of writing dated the 2nd day of June, 1901 and filed for record in the office of the Commission to the Five Civilized Tribes on the 23 day of June, 1901 at 10 o'clock A. M.

Witness my hand and official seal this the 23 day of June, 1901.

Tom Sealy
Commissioner

(Seal)

Notary Public

Commission Expires:
Nov. 1, 1904

Abner Martin - +.

COMMISSION TO THE FIVE CIVILIZED TRIBES
DEPARTMENT OF THE INTERIOR
FILED
JUN 23 1901

***

File with Harriett Tucker, Doubtful Cherokee Freedman.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Aaron Martin.
Q How old are you, Aaron? A I guess about 67 or 68.
Q What is your postoffice address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I don't know, sir,;it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation?
A No, sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon

Q Did you receive your money known as the Cherokee Strip money?
A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the name of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

Q Aaron, were you a slave before the war? A Yes, sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q You have been living in the Cherokee Nation ever since 1866?
A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I din't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Cap Hicks, and Andrew Frey.
W. W. Hastings: Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
Q Are you a blacksmith? A No sir.
Q Another Martin is a blacksmith? A Yes sir.
Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cookrum was living at Johnson Thompson's place when I got back.
Q How long did you live at that place? A I stayed there until

along sometime about Christmas, I reckon; I went down to Cap Hicks'.
Q About what time did you come to the Cherokee Nation after the war - what time in '66? A It was some time in the fall.
Q You have lived there ever since? A Yes sir.

ANDREW FREY, being sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:
Q Is your name Andrew Frey? A Yes sir.
Q How old are you? A 66.
Q What is your postoffice? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Freedman? A Yes sir.
Q Do you know Aaron Martin? A Yes sir.
Q How long have you known him? A Why I don't know, sir, just exactly how long, ever since we were boys.
Q Was he a slave? A Yes, sir.
Q To whom did he belong? A He belonged to John Martin.
Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
Q Where? A He was over here across the river partof the year 1866.
Q In the Cherokee Nation? A Yes sir.
Q Did he go out of the Cherokee Nation during the war? A Yes sir.
Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
Q Did he return? A Yes sir.
Q In what year? A In '66.
Q Are you any relation to him? A No sir.
Q Qas he married at that time? A Yes sir.
Q Was his family with him? A Yes sir.
Q Did his family return with him? A Yes sir.
Q Were you ~~xxxx~~ a slave? A Yes sir.
Q To whom did you belong? A I belonged to Mary Clark.
Q Were you in Kansas with Aaron Martin? A Yes sir.
Q Did you return with him? A Yes sir.
Q Have you known Aaron Martin well since that time? A Yes sir.
Q Has he lived in the Cherokee Nation since? A Yes sir.
W. W. Hastings: You say he come back with you? A Yes sir.
Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a big crowd of us.
Q Well, name some of the rest of them? A Peter Williams.
Q Anybody else? A Tobe Schrimsher, Jake Martin's family.
Q Anybody else? A I don't know who else.
Q That is all you can remember? A Yes sir.
Q What time in the year did he come back? A He come back - we got back over to Dr. Thompson's place the 3rd of October, '66.
Q Any colored folks there when you got there? A No one at all.
Q ~~xxx~~ you positive about that, are you? A Yes sir, no one at all there.
Q That was in October, '66? A Yes, sir.
L. B. Bell: Who got back there first, you or Judge Daniels' family?
A Me.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:
Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your postoffice address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yessir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.

Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of '66.
Q Where at? A At my mother's.
Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir
Q Did he have a family at that time? A Yes sir.
Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
W. W. Hastings: Who farmed it in '76? A Young Wolf, my mother.s husband.
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67?
A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy older than I am and two younger then I am.
Commissioner of Applicant: Did you draw money for Frances and Neely?
A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:
Page 23, No. 568, Frances Adams, Delaware District;
Page 23, No. 569, Nealey Adams, Delaware District.

Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all alive and living with you at this time?
A Yessir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

Aaron Martin applies for the enrollment of himself and three children, Frances, Neely and Phoebe. His name is not found upon the authenticated roll of 1880, but is found upon the Kerns Clifton Roll. By reason of the fact that his name is not found upon the roll of 1880, and his citizenship is contested by the Cherokee Nation, his name will be placed upon a doubtful card. When the Commission arrives at a decision in his case, he will be notified by mail. He avers that his children, Frances, Neely and Phoebe, are the children of

Cora Adams, his wife, and the name of Cora Adam is found upon the authenticated roll of 1880, and Frances and Neely are identified on the Kerns Clifton Pay Roll. The name of Phoebe is not identified upon any roll, having been born after the said rolls were compiled. They are all duly identified and make satisfactory proof as to residence, consequently, Frances, Neely and Phoebe Martin will be duly listed for enrollment as Cherokee Freedmen. Their names appear upon the Kerns Clifton Roll as Adams, but they are duly identified as the applicants. In order to complete the enrollment of Phoebe, it will be necessary for him to file with the Commission satisfactory proof of birth of said Phoebe.

The undersgined, being duly sworn, statesthat as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Signed, E. G. Rothenberger

Subscribed and sworn to before me this 21th day of May, 1901.

Signed, M. D. Green,

(Seal) Notary Public.

****

Bruce C. Jones, stenographer to the Commission to the Five Civilized Tribes, being duly sworn, says that he copied the foregoing and that the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 20th of July, 1901.

Commissioner.

8D697.

IN RE

Application for Enrollment of

INFANT CHILD

Sarah M. Tucker

as a citizen of

CHEROKEE NATION.

Approved ~~Sept 7~~ Oct 31 1902

C. R. Breckinridge

Commissioner.

For Sale by Leader Printing Co., Vinita.

9/22. Held pending decision

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 31 1902

BIRTH AFFIDAVIT.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the Cherokee Nation,
of Sarah M. Tucker (here insert name of child), born on the 22 day of Feb., 1902.
Name of Father: John Tucker, a citizen of the Cherokee Nation.
Name of Mother: Harriett Tucker, a citizen of the Cherokee Nation.
Post-office, Chelsea, I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

I, Harriett Tucker, on oath state that I am 33 years of age and a citizen, by Freedman Blood of the Cherokee Nation; that I am the lawful wife of John Tucker, who is a citizen, by Freedman Blood of the Cherokee Nation, that a Female (male or female) child was born to me on the 22 day of Feb. 1902; that said child has been named Sarah M Tucker, and is now living.

Harriett her X mark Tucker

WITNESSES TO MARK:
(Must be two Witnesses) J. D. Miller
J W Coopice

Subscribed and sworn to before me this 18 *day of* Sept. 1902

David G Ellis
NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

I, Eliza Martin, a Midwife, on oath state that I attended on Mrs Harriett Tucker, wife of John Tucker on the 22 day of Feb., 1902; that there was born to her on said date a Female (male or female) child; that said child is now living and is said to have been named Sarah M. Tucker

Eliza her X mark Martin

WITNESSES TO MARK:
(Must be two Witnesses.) J. D. Miller
J W Coopice

Subscribed and sworn to before me this 18 *day of* Sept. 1902

David G Ellis
NOTARY PUBLIC.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 239
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 315
Harriett Tucker et al	Cherokee Freedmen D 397
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

POOR ORIGINAL -
BEST AVAILABLE COPY

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Groom for herself and minor children, Martha, Dora, Peter W., Lourretha and Ennis Groom; by Perry Nash for himself; by Howard Nash for himself; by Curris Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and Jane Martin; by Joshua Martin, for himself; by Howard Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lizzie, and minor children, Maggie, Louis, Lawrence, Lottie Martin; by Nellie Brown for herself and minor children, Tom, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Lena Brown, Henrietta Bean, George Tucker and Hope Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah A. Tucker; by Lydia Carter for herself; by Allie Holiroy, for herself and minor child, Ettie Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Ellen Gaines, Jane Webb, Henry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Nash and Georgia Nash are the principal applicants herein; and that all the other applicants in these several cases have been born since 1866 and, with the exception of Ella Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1865.

The evidence further shows that Ella Hunter is the daughter of Rose Hange, sister of Ellen Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rose Hange was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19, 1866.

The said Alice Martin is duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, except during occasional trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28, 1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1901; and that the applicant, Ellen Groom, died in October, 1901; and that the applicant, Ennis Groom, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed on September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Caines, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Allan Jones, Charlie Jones, Julia Jones, Walter Jones, Dennie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Ivy Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Euretha Grooms, Henry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Michael Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Dennie Brown, Jesse Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah A. Tucker, Sydna Carter, Allie McIlroy, Ott Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Dennis Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. M. Stanley, Commissioner.

Muskogee, Indian Territory,

this Dec 3-1903.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T. January 6, 1905.
-oOo-

In the matter of the application of John Tucker, an undetermined Cherokee Freedman, to file in allotment as administrator of the Estate of his deceased wife, Harriett Tucker, Cherokee Freedman Roll No. 3597, Field Card No. 1301.

John Tucker, having been first duly sworn, upon his oath testified as follows:

Examination by the Commission:

Q What is your name? A John Tucker.
Q What is your postoffice address? A Chelsea.
Q Who is Harriett Tucker? A She was my wife.
Q Is she now living? A No sir, she is dead.
Q When did she die? A October 11th.
Q What year? A 1904.
Q Have you been appointed administrator over your deceased wife's estate? A Yes sir.
Q You now wish to select a complete allotment for her on the West side of Grand River? A Yes sir.
Q You have the land picked out? A Yes sir, I have a plat here.

Witness files letters of administration, dated January 5, 1905.

(Witness excused).

Josie Davies, having been first duly sworn, states: That as stenographer to the Commission to the Five Civilized Tribes, she reported all proceedings had in the above entitled cause on the 6th day of January, 1905, and that the above is a full, true and complete transcript of her stenographic notes thereof.

Josie Davies

Subscribed and sworn to before me this 6th day of January, 1905.

Charles H. Sawyer
Notary Public.

IN RE
THE DEATH OF
Harriett Tucker
a citizen of the
Cherokee Nation.

Approved JAN 14 1905 190

Commissioner.

FILED
JAN 14 1905
COMMISSION TO FIVE TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Harriett Tucker
(Here insert name of deceased.)
a citizen of the Cherokee Nation, who formerly resided at or near
Chelsea (Here insert name of postoffice), Ind. Ter., and died on the 11th day of
October, 1901.

AFFIDAVIT OF RELATIVE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Western DISTRICT.

I, John Tucker, on oath state that I am 48
years of age and a citizen, ~~by~~ undetermined, of the Cherokee Nation;
that my postoffice address is Chelsea (Here insert name of postoffice.), Ind. Ter.; that I am
the husband (State relationship as: the father; an uncle; a cousin, etc.) of Harriett Tucker (Here insert name of deceased),
who was a citizen, ~~by~~ freedman, of the Cherokee Nation;
and that said Harriett Tucker (Here insert name of deceased.) died on the 11th day of
October, 1901. John his x mark Tucker

WITNESSES TO MARK:
(Must be Two Witnesses.) W. A. Hawkins
Josie Davis

Subscribed and sworn to before me this 6 day of January 1905.
W. A. Hawkins
Notary Public.

AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Western DISTRICT.

I, N. M. Smith, on oath state that I am 52,
years of age, ~~and a citizen by~~ —, ~~of the~~ non citizen Nation;
that my postoffice address is Chelsea (Here insert name of postoffice.), Ind. Ter.;
that I was personally acquainted with Harriett Tucker (Here insert name of deceased.)
who was a citizen, ~~by~~ freedman, of the Cherokee Nation;
and that said Harriett Tucker (Here insert name of deceased) died on the 11th day of
October, 1904. N. M. Smith

WITNESSES TO MARK:
(Must be Two Witnesses.)

Subscribed and sworn to before me this 6 day of January 1905.
W. A. Hawkins
Notary Public.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

WASHINGTON, September 28, *1918.*

I, E. B. Meritt, Assistant Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true copies of the originals as the same appear on file in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, on the day and year first above written.

E B Meritt

Assistant *Commissioner.*

MAR

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Roxie Jones, McKinley Jones, Cantrelia Jones, John T. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Lauretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hunes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Roxie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah L. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MADDOLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

Cherokee Freedmen
D-697.

Muskogee, Indian Territory, September 30, 1903

Harriett Tucker,

Chelsea, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself and minor children, Clem Martin, Emma and Henrietta Bean and George, Floyd and Sarah A. Tucker, as Cherokee freedmen, together with a copy of the Commission's decision dated September 5, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge

Register.
Enc. D-91

Chairman.

Refer in reply to
the following:
LAND
63877-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rose L. Sanco, who was a sister of Eliza Gaines. Rose L. Sanco, deceased, belonged at the commencement of the rebellion to Nancy Cameron a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John M. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-697.

Muskogee, Indian Territory, April 18, 1904.

Harriett Tucker,

Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor children, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M. Tucker, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220, et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 6, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor, and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Annie Greene as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

COPY.

Muskogee, Indian Territory, October 11, 1904.

Mr. Clem Martin,

Care of L. B. Hamilton,

Manager, Mineral Belt Lumber Company,

Joplin, Missouri.

Dear Sir:

The Commission is in receipt of your letter of October 3rd, relative to your enrollment as a Cherokee Freedman.

In reply you are advised that your name appears upon Cherokee Freedman straight card No. 1301. You are further advised that you will not be permitted to select your allotment until your name is placed upon a final schedule of Cherokee Freedmen and approved by the Secretary of the Interior.

Respectfully,

(SIGNED). Tams Bixby.
Chairman.

COPY.

Cherokee Freedmen
No. 1301.

Muskogee, Indian Territory, November 21, 1904.

Clem Martin,

Care of L. E. Hamilton,

Manager Mineral Belt Lumber Company,

Joplin, Missouri.

Dear Sir:

The Commission is in receipt of your letter of November 17, asking to be advised when the Cherokee freedmen schedule, upon which your name was placed, will be approved by the Secretary of the Interior.

In reply, you are advised that the Cherokee freedmen schedule referred to was forwarded, on November 2, 1904, to the Secretary of the Interior for his approval. It is impossible for the Commission to state definitely when said schedule will be approved by the Secretary, but it is supposed that such action will be taken in the near future.

You inclose the Commission's letter of October 11, to you, which is herewith returned.

Respectfully,

SIGNED. Tams Bixby.
Chairman.

Incl. S-54.

COPY.

Cherokee Freedmen
No. 1301.

Muskogee, Indian Territory, November 25, 1904.

Clem Martin,

Care L. B. Hamilton,

Manager, Mineral Belt Lumber Company,

Joplin, Missouri.

Dear Sir:

The Commission is in receipt of your letter of November 17, asking to be advised as to the status of your application for enrollment as a Cherokee freedman.

In reply, you are advised that your name appears upon a partial roll of Cherokee freedmen approved by the Secretary of the Interior on November 16, 1904, opposite number 3598.

You are further advised that you will be permitted to appear before the Cherokee Land Office and make an allotment selection as soon as your ticket of admission is reached in the regular order.

You inclose the Commission's letter of October 11, to you, which is herewith returned.

Respectfully,

SIGNED T. B. Needles,
Commissioner in Charge.

Incl. S-54.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ----------Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West,
F-1494 ----------Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callie West,
4079	Henry West,
4080	Callis West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088 ----------	Martha West,
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 28,1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "To review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Gaines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll?

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion! that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905, (Land 38933-1905) and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

Secretary-6

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3576 to 3579, inclusive, be granted.

Prior to the filing of this motion to review applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. 3-40

Commissioner

COPY

Land
106488-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 28, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

Freedmen approved by the Department September 15, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James, Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testiyfying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as as witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearingsis so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Jihnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by theattorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 5379, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

JFJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106458-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1301

COPY

Muskogee, Indian Territory, March 7, 1907.

Aaron Martin,

Chelsea, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of your deceased daughter, Harriett Tucker and others, as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

Commissioner.

JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl. H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review andreject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby
Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedman 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedmen 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907. GAW

DEPARTMENT OF THE INTERIOR,

I.T. 47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1301.

Muskogee, Indian Territory, June 8, 1907.

John Tucker,

Chelsea, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of your wife, Harriett Tucker, and her minor children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-20.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee Freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1302

See Cher Fr 1281, 1303, 4, 5, D767

Cher Fr 1302

JUN 27 1901

Mellette & Smith for the applicant
W. W. Hastings for the Nation

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T. June 12th 1901.

In the matter of the applicaion of ~~Liddy~~ Lydia Carter for the enrollment of herself ~~and three children~~ as Cherokee freedman; she being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Liddy Carter.
Q How old are you? A. About 48.
Q What is your post office addres? A. Coffeyville Kansas.
Q What district do you live in? A. Cooweescoowee.
Q In the Cherokee Nation? A. Yes sir.
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you desire to have enrolled besides yourself? A. My children
Q How many ? A Five.
Q Are you married? A. Yes sir.
Q What is your husbands name? A. Charles Carter.
Q Is he a citizen? A. No sir.
Q Give me the names of your children? A. I have no children under age.
Q Is your name on the 1880 roll? A. No sir.
Q Is it on any of the rolls of the Cherokee Naion? A I ought to be on some of them.

~~Name~~ Applicant's name not found on the roll of 1880.

Kern Clifton roll examined and the name of applicant found as follows
Page 162 No. 3998, Liddy Carder (or Middleton) Cooweescoowee dist.

Wallace roll examined and applicant found as follows-
Page 150 No. 3715, Lydia Middleton, Cooweescoowee district.

Q How did you name happen to be Middleton? A. I was married to him.
Q What is your ~~[illegible]~~ husband's first name? A. Tobe.
Q Are you separated from him? A. Yes sir.
Q What is your second husband's name? A. Chalres Carter, is my present husband's name.
Q You were married twice? A. Yes sir three times.
Q What was your first husbands name? A. Jordan Harper.
Q Is he living? A. No sir.
Q Who was your second husband? A. Tobe Middleton.
Q And your present husband is named what? A. Charles Carter.
Q Is Charles Carte living? A. Yes sir.
Q He is a state man? A. Yes sir.
Q When were you married to Charles Carter? A. 7 years ago.
Q The first time that your name was ever Carter was seven years ago?
A Yes sir.

By Smith-

Q Were you a born slave? A. Yes sir.
Q Who did you belong to? A. John Stover.
Q What was John Stover's wife's name? A. Charlotta.
Q Were they citizens of the Cherokee Nation? A. Yes sir.
Q Were they Cherokee Indians? A I dont know if both of them was or not.
Q Was either of them? A I guess they was.
Q Recognized citizens of the Cherokee Nation? A. Yes sir.
Q How old are you now? A. I dont exactly know, 48 or 9.
Q Where were you living when the war commenced? A. On Baties' Prairie
Q Where is Baties Prairie? A. At the old home place.

Q Where was that, in the Cherokee Nation? A. Yes sir.
Q Have you any brothers and sisters? A. Yes sir.
Q Name them? A. Berry Thompson a half brother of mine. and Eliza Gaines is my full sister. Angeline Stover is my full sister; Rose, and my brother that got killed.
Q What was Rosa.s name? A. Rosa.
Q Rosa What? A Stover
Q Did she ever marry? A. I dont know about that.
Q Did you go out of the Cherokee Nation during the war? A. Our master carried us out and brought us back.
Q When did he bring you back ? A In '66.
Q Who with? A. With his family, I dont know who all, all of them.
Q Who do you mean by them? A. His children and their children.
Q Did his children come back with you? A. Yes sir.
Q With reference to your family, state which ones you were brought back with? A. Eliza Gaines, Jane Webb , Berry Thompson and my mother.
Q Where have you lived since you were brought back? A. When we first come back I stopped with my sister Eliza Gains in Gibson, I was small
Q Is she older than you or younger? A. Older.
Q Where do you live now? A. On Snow creek.
Q In the Cherokee Nation? A. Yes sir.
Q How long have you lived there? A. Since this K. C. roll, about 4 years I guess.
Q How long have you been married to Carter? A. Bout 7 years in December.
Q Have you and Eliza Gains the same father and mother? A. Yes sir.
Q You said Berry Thompson was your half brother, did you have the same mother? A. Yes sir.

By W. W. Hastings—

Q What is your oldest childs name? A. Willie.
Q The next one? A. Jimmie.
Q Is Jimmie dead? A. Yes sir.
Q How old is Willie? A. I dont know.
Q About how old? A. I dont know his age.
Q Is Will married? A. No sir.
Q Living with you? A. No sir.
Q Is he grown? A. Yes sir.
Q About how long after the war was he born? A. I dont know how long after the war.
Q As much as ten years? A. He was born on Cabin creek.
Q Near what place on Cabin creek? A. At Mrs. Gains on the Larkin place
Q What king of a house did you live in? A I dont know.
Q Where did you get your water? A. In the creek.
Q In the Creek? A. I suppose it was.
Q Not certain are you? A. No sir; in the summer we got it out of the creek and in the winter they cut a little hole in the ice and got it out of the Creek too.
Q How long did you stay there? A. I dont know, seemed like it was a long time .
Q As much as 6 months? A. I dont know, it seemed a long time cause I didn't like it there.
Q What was your husbands name then? A. Harper.
Q Is that Will's father? A. Yes sir.
Q Who married you and Jordan Harper? A. Joe Shields.
Q When were you married to him? A. In Chetopa Kansas.
Q Do you know what year? A. No sir.
Q How long had you been in this country when you married Harper? A. I

dont know.
Q About how many years were you living up here? A. I dont know.
Q About how many years after the war was it? A. I dont know.
Q You dont? A. No sir.
Q What was your mathers name? A. Mary Stover.
Q How long did you live with Harper? A. I dont know.
Q Where did you live with him? A. On Cabin creek.
Q Whose place? A. A little place of our own.
Q Where did he die? A. In Chetopa.
Q In whose house in Chetopa? A. I dont know whose house it was .
Q How far was your place from Chetopa? A. About 12 miles
Q How long did you live there on Cabin creek? A. I dont know, until my children was born.
Q How many did you have born there? A. Seven.
Q Who were you neighbors? A. Bill Tucker, a woman named Summers and Mr. Barker.
Q When did you marry Middleton? A. I dont know.
Q Where did you marry him? A. In Vinita.
Q Who married you? A. Fred Martin.
Q The father of this Fred Martin around here and of Amy Bean? A. Yes sir.
Q Where were you married to Carter? A. In the Choctaw Nation.
Q Who married you? A. A man named White.
Q And you say you came back with your owners family to the Cherokee Nation? A. Yes sir.
Q And your owner was John Stover? A. Yes sir.
Q He brought you back to what place? A. Fir * to Red river and then he died and than we come on to Fort Gibson.
Q Then he didn't brigg you back here? A Part of he way until he died.
Q What year did he die? A. I dont know, dont know years now less they is told me.
Q What town in the Cherokee Nation did you first come to? A. Ft. Gibson I guess.
Q You guess? A. Not much of a town then.
Q Have you ever been there since? A. Yes sir.
Q When? A. The last time was when the soldiers was settled there.
Q What time of the year was it that you first came to Gibson? A. I dont know.
Q Who did you live with there? A. Eliza Bains.
Q How long did you stay there? A. I dont know.
Q Stay there a week? A. Must have staid there that long.
Q Was it longer or shorter than that? A. I dont know.
Q What is your best judgment about it? A. I dont know.
Q Was it a year? A. I dont know.
Q Was it inside of a year? A. I dont know.
Q Was it five years? A. I dont know.
Q Was it inside of five years? A. I dont know.
Q What is your best judgment about it? Tell me about how long you staid there? You would know the difference between staying there a week and five years wouldn't you? A. If I was there now I would know, but I dont know anything about when I was a child.
Q You dont know if it was a week or five years? A. No sir.
Q You dont know what sort of a house you lived in? A. No sir.
Q Was your mother living then? A. Yes sir.
Q She was? A. Yes sir.
Q Did you know anybody about Fort Gibson then? A. No sir I dont remember any of them.
Q Where did you go from Fort Gibson? A. Come up near the line on the Larkins place.
Q How many years was that after the war? A. I dont know sir, something

I dont know nothing about, it seemed like we was living around all the time until I settled down and married.
Q What kind of a field was it at the Larkins place? A. I dont know.
Q What kind of a house, a painted house or an unpainted house? A. I dont know.
Q You dont know if it was a log house , a brick house or a frame house? A I dont remember.
Q How long did you live there? A. I dont know.
Q Well about how long? A. Until I married and moved off to myself.
Q You was a grown woman when you married? A Yes sir.
Q You were married the last time in the Choctaw Nation? A. Yes sir.
Q Do you know Martha Bacon? A. Yes sir I know her, Mrs. Trott told me she was at South McAlister.
Q Was she your young mistress? A. Yes sir.
Q Did you know her in the Choctaw Nation? A. Yes sir.
Q Did you see her after the war? A. No sir not since we come back from Texas.
Q Near what town in the Choctaw Nation did you marry? A. Hartshorn.
Q What children have you born to you by your last husband? A. I haven't any.
Q Where is Charles Carter now? A. At home.
Q Where is that? A. On Snow creek.
Q How long have you been on snow Creek? A. 2 or 3 years, I guess going on 4 years now.
Q Have you got a place up there now? A. Yes sir.
Q You have lived there since the last payment ? A. Yes sir.
Q Where did you come from to Snow Creek? A. Vinita.
Q How long had you lived in Vinita? A. About 20 years.
Q Continuously? A. No sir but the biggest part of the time.
Q What sort of a house did you live in on Cabin creek? A. A little log house.
Q Did you make any sort of a crop there? A. Just what we could with a hoe.
Q Never had a team? A. No sir not then
Q Jordan Harper never had a team? A. No sir never was able to have one.
Q How much was there in that patch? A. Couple of acres.
Q Always tended it with a hoe did you? A. Yes sir, what time he lived he tended it and when he died I worked out.
Q What towns in Kansas did you work in? A Chetopa.
Q Is that all ? A Yes sir.
Q You had seven children born to you by Jordan Harper? A. Yes sir.
Q Who did you sell that place to ? A. No one.
Q Just vacated it? A. Yes sir, couldn't make a living there and left it.
Q Did you stay there until those seven children were born? A. Yes sir
Q Was Welch Station there then? A.No sir.
Q What was your nearest town? A. Chetopa.
Q What direction were you from Chetopa? A North I guess.
Q When you would go to Chetopa would you go south? A. No we would go north I guess.
Q Was you north of Chetopa or was you south of it? A. We had to go up north to go to Chetopa, we lived on Cabin creek.
Q How far was the M. K. & T. Railroad from you? A. Wasn't there when we were there, never saw one.
Q Never was a railroad around there when you lived there? A. Yes sir
Q Well how far was it from you? A. 15 miles, or 17 miles.
Q But you never saw it? A. No sir, the first one that I ever saw was at Vinita.
Q Did you ever go to Chetopa when you lived on Cabin? A. Yes sir.
Q That road doesn't run through Chetopa? A. Yes sir.
Q Didn't you see it up there?A. No sir.

Q What did you and your husband do for a living there on that place? A Just what we could, he would go to the states and work in the harvest field and I staid at home and caught fish and made meal in a mortar and hominy and such things.

By Smith-

Q When you went out of the Nation during the war, how far south did you go? A. I dont know.
Q Where did you go? A. Went to Texas.

By the Commission-

Q What was your fathers name? A Edmond Vann they said, I never seed him.
Q What was your moth rs name? A. Mary Stover.

Hastings-

Q Whose is the first time you ever saw Moses Riley on Cabin creek? How many years ago? A. I dont know.
Q How old are you? A. I dont know my age I dont know except what Mrs. Damen told me.

MOSE RILEY called and sworn as a witness for the applicant-

By Smith-

Q What is your name? A. Mose Riley.
Q How old are you? A. 51.
Q What is your post office address ? A Chelsea.
Q Do you know this applicant Liddy Carter? A. Yes sir.
Q How long have you know her? A. Ever since I was a small boy.
Q Where is she living now? A. Her place is on the other side of Cabin creek.
Q How far from Chelsea? A. 35 or 40 miles.
Q In the Cherokee Nation? A. Yes sir.
Q Did you know her before the war or not?. A I seed her in time of the war.
Q Where did you see her then? A. I guess it was at Mrs. Stovers, I was a small fellow then, they taken me there and I knowed her mama well and this was the girl that I got acquainted with there.
Q What was her mothers name? A. Mary,
Q When did you first see this applicant after the war? A. When they was coming from Fort Gibson.
Q Where did you see them when they were coming from Fort Gibson? A I was cutting corn for Col. Bell.

By Hastings-

Q Col. L. B. Bell, commonly called Rooley Bell? A. Yes sir Col. Bell.

By Smith-

Q It was Hooley Bell was it? A. Yes sir.
Q When was this? A. Right after the war, not long after the war.
Q You dont know how long after? A. No sir.
Q Have you known this woman since that time? A. Yes sir.
Q When did you see her the next time? A. I saw her on the old place known as the Larkins' place——now I guess it is the Larkins' place, the place known as the Old Larkins' place, right close to the line.
Q Close to what line? A. The Kansas line.
Q Who owns it now? A. I dont know.
Q Well go on? A. I think they settled there on that place.
Q Who do you mean by "they"? A This child's mamma and her children.
Q How long was that after you saw them when you was cutting corn at Col. Bell's? A Perhaps two years, somewhere along near two years.
Q On which side of the line was that? A. South side of the line.
Q When did you see her next after that? A. It was at the same place, their brother hired me to build a house for them on the north side of Cabin creek.
Q Near what point on Cabin creek? A. One and a quarter miles of Bill Tucker's.
Q How far from Chelsea? A. I dont know.
Q Was it in the Cherokee Nation? A. Yes sir.
Q When did you next see her after that? A. Seed here here after that at Vinita.
Q Have you seen here a few times or often since you saw her at Vinita? A Several times.
Q Do you know if Liddy is a relation of Eliza Gains or not? A. She is her sister.

By Hastings—

Q Where did Mrs, Stover live when you first saw this applicant? A. I dont know exactly where it was, it was way over in there (pointing) some place.
Q How long had the war been going on then? A. I dont know.
Q Who do you mean when you said that you knew her mother Mary very well, you know that Mrs. Stover was named Mary and this woman Liddy's mother was named Mary? A I mean Mary Stover, and we went to Jim Allen Thompsons place , the Stovers and the had married. Liddy's mother was a Mary stover and then there was a Mary Stover that was a Cherokee and owned them.
Q How far did James Allen Thompson live from Mrs. Stover? A. I dont know, I was riding on behind my mistress on a horse and was a little fellow, just big enough for her to have me put on behind her, and I was asleep most of the time as we was going along, and sometimes she had to tie me on to keep my from falling off and I dont know how we went or how far it was.
Q Well it was several miles wasn't it? A. I dont know.
Q Well it was long enough for you to go to sleep betwe n the places wasn't it? A. I went to sleep.
Q Do you know what sort of a house Mrs. Stover lived in? A. I dont know what sort it was, I dont know if it was pine or what, I know it had them bright pieces running up and down the porch for I was climbing them and the old lady McNair or something like that come up and smoked my ears for it.
Q Was it a frame or log house? A I dont know anything about it except them things on the porch,

Q Were they posts? A. Yes sir.
Q Was that the time that you saw this woman here? A. Yes sir.
Q Was it in the timber or prairie? A. There was some timber that we went through.
Q And you saw her mistress Mrs. Stover at the same time? A. Yes sir, that is what they called her.
Q She was there at the time? A. Yes sir, that was where we went that time.
Q And the first time that you ever saw her after the war was at Hooley Bell's place where they were cutting corn? A. Yes sir.
Q Did you have any talk with them then? .A Yes sir, I staid there right sort of a spell.
Q Did they saw where they were from? A. Fort Gibson.
Q Hooley was living there was he? A. I guess so.
Q,They were cutting corn for him? A. They was cutting corn.
Q And he was living there, Hooley was? A I went up there to the place to get my pony and he was there.
Q How many years after the war was that? A. Not long.
Q Do you know where this woman was married the first time? A. No sir she wasn't married at that time when I seed her that I know of, she had a boy with her or some kind of a child, I dont think she was married then.
Q What was its name? A. Will, I believe, I'm not sure.
Q Was Will old enough to talk then? A. Might have been, he never talked none to me though, I never fooled with him.
Q It was this woman's child? A. Yes sir.
Q Was you well acquainted with her first husband? A. No sir.
Q Did you ever get acquainted with her husband? A. Am acquainted with the one she has now.
Q What is his name? A. Carter.
Q Is that the only husband of hers that you became acquainted with?
A I think one died.
Q You dont know where she married Carter? A. No sir.
Q How long has she lived where she is living now? A. I dont know.
Q How long have you known her up there? A. I have knowed where her place is five or six years.
Q You saw her there with one child when you saw her at Bell's? A. Yes sir.
Q You know that she had one child then? A. Yes sir.
Q You are positive of that? A. Yes sir.

Eliza Gaines, called and sworn as a witness for the applicants.

By Smith-

Q What is your name? A. Eliza Gaines.
Q Do you know this applicant, Liddy Carter? A. I know she is my sister
Q Is she older or younger than you? A. Younger, she was the baby,
Q Who was your mother? A. Mary Stover.
Q Who was your father? A. Edmond Vann, brother to Jin Vann
Q Was Liddy a slave? A. Yes sir she was born a slave child.
Q Who owned her? A. John Stover.
Q Was he an Indian? A. No sir.
Q Was his wife? A. Yes sir.
Q Where was she when the war commenced? A. At the old place.
Q Where was that, in the Cherokee Nation? A. Yes sir, right where Mr Hasting's mother is living now. Four miles from Mayesville.
Q Was this applicant taken out of the Cherokee Nation during the war?
A Yes sir, went to Texas together.

Q What was your
Q Was this sister of yo
Q Was this sister of yours, Liddy Carter, was she or was she not, with you in that crowd when you came back to the Cherokee Nation, as described by you in your testimony in your own case? She was with me and staid with me for some time after we got here.
Q How long did she stay with you after you got here? A. Until she was a grown woman.
Q How long was that after you come? A. I dont know, exactly how long .
I cant read and dont keep no count of nothing like that.
6.

Q What year did you come back? A. I dont know what year,I know my Master brought us back.
Q Was this applicant with you? A. Yes sir.
Q Where did you first come back to? A. Fort Gibson.
Q In the Cherokee Nation? A. Yes sir, my master died in the Chickasaw Nation.
Q Who did you come the rest of the way with? A. I hired a man to bring us to Fort Gibson .
Q Who did he bring? A. Berry Thompson , and Mrs. Harris, and Liddy Carter and Jane Webb and my children that was born then.
Q Are these all of your family that he brought up? A. Yes sir.
Q There was you and Jane Webb and Berry Thompson and Lyddy Carter? Yes sir,and Mrs. Harris.
Q Any more? A. My mother and Brother but they is dead.
Q Did your mother and brother and you four make up the family that came in that lot? A. Yes sir all came in the same lot.
Q When was it you got back to Fort Gibson? A. When the soldiers was there, in '66 they told me.
Q Are you the same Eliza Gaines that applied some time ago? A. Yes sir the same one.
Q What was your name before you married Gaines? A. Nash.
Q Was this sister of yours, Liddy Carter, was she or was she not, with you in that crowd when you came back to the Cherokee Nation, as described by you in your testimony in your own case? She was with me and staid with me for some time after we got here.
Q How long did she stay with you after you got here? A. Until she was a grown woman.
Q How long was that after you come? A. I dont know, exactly how long .
I cant read [redacted] and dont keep no count of nothing like that.

By W. W. Hastings-

Q How long did you stay in Fort Gibson? A. About a year
Q What did you do there? A. I washed and ironed.
Q Who for? A. The soldiers.
Q Did you live in a house? A. No sir in a tent.
Q All the time? A. All the time, we had a tent like a house.
Q Who kept the store there? A. I cant tell you, I knowed it was an Indian but I dont know his name.
Q Where was a store was there? A. One store that we traded at.
Q Then you come up by Hooley Bells place did you? A. Yes sir.
Q And then you went to the Larkin's place? A. Yes sir.
Q And this woman was with you all that time? A. Yes sir.
Q What is her oldest childs name? A. Will, he is dead.
Q Where was he born? A. In the Choctaw Nation.
Q How old is this woman? A. I dont knoe.
Q How old was she when the war came up? A. I dont think she was as old as Dora then.
Q What Dora? A. Her young mistress, I dont know if it was Dora or Martha
Q Was she a grown woman when the war came up? A. No sir, these negro girls get grown now when they is 15 or 16 years old.
Q Was she 15 or 16 years old then? A. No sir.
Q Where was her youngest child born? A. I dont know.
Q Do you know where she married first ? A No sir.
Q Do you know where any of her children were born? A. Only Will
Q Is that all? A. Yes sir.
Q Do you know where

Q Do you know where she marrid Tobe Middleton? A. At Vinita I guess.
Q Did she ever live with Jordan Harper? A. Yes sir, that was on Cabin creek.
Q In the same house with you? A. No sir.
Q How far from you? A. Not very far, as far as that house over yonder (pointing)
Q How long did she live there? A. A Year or two.
Q Where did she go from there? A. Went to Chetopa and hired out and worked.
Q When did her husband Harper die? A. I dont know.
Q When did she marry Charles Carter? A. I dont know.
Q Where is she living now? A. On Possum creek I believe it is.
Q How long has she lived up there? A. She got a place up there after she drawed her money.
Q Where did she get her money, at which paying precinct? A I dont know
Q How long did she lived in Vinita? A. I dont know.

By Smith?

Q, Where is Possum creek, in the Cherokee Nation? A. Yes sir.

By Com'r Needles,-

Liddy Carter applies for herself; she is not found on the authenticated roll of 1880 or the census roll of 1896; she is identified on the Kern Clifton and Wallace roll; she avers that her father was Edmond Vann and her mother was Mary Stover, and that she was a slave of the Stovers before the war; she avers that she was married three times, first to Jordan Harper, then to Tobe Middleton and then to Charles Carter her present husband. The applicant's attorneys pray that the testimony taken in the case of her sister, Eliza Gaines on Cherokee Freedman doubtful card #220 be made a part of the record inthe case at bar and it is ordered that a copy of same be filed herewith. Now the said Liddy Carter will be listed for enrollment as a Cherokee Freedman on a doubtful card and she will be notified by mail of the final decision of the Commission.

* * * * * * * * * * *

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full, all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 26th of June, 1901 at Nowata I. T.

Commissioner.

B 7D716

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 12 1901
ACTING

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date JUN 12 1901

Post Office Coffeyville Kas.

District Cos

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

11. Name of wife Lydia Middleton Age 48

Owner's name Tom Stover Citizenship Cherokee

Year [illegible] Page [illegible] No. 9095 District Cos

Parents:

Father [illegible] Citizenship .....

Mother [illegible] Citizenship .....

Names of Children:

3. ~~[illegible]~~ Year ~~Page~~ No. ~~Dist.~~

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by [illegible] Stenographer [illegible]

[illegible] on K.B. roll as Lidy Butler (or Middleton)

[illegible] Page 33 #2,715 - Lydia Middleton - Cos

Represented by Willette and Smith Counts, Ky

subscribed am I amongst the seals of those who

.1901

(SEAL))

Washington, D. C.

It is the duty of the Commission to inquire into the affairs of the Nations and to report to the Congress, as the occasion may require, the conditions of the Indian tribes, and the progress made in civilization and education.

Hence before the Commission, point that as a representative of the Chickasaw people I am delegated to present to the Commission the following:

.beginning

Resolved, That the Chickasaw people are willing to accept the offer of the Commission to the Five Civilized Tribes of the Indian Territory, as set forth in the act of Congress approved June 28, 1898, and the act of March 3, 1901, and that they will be ready to enter into negotiations with the Commission for the allotment of lands and the dissolution of their tribal relations, and to do all things necessary to carry into effect the provisions of said acts of Congress.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUL 29 1901

To be filed in the case of Liddy Carter, C. F. D. 716.

Department of the Interior,
Commission tomthe Five Civilized Tribes,
Vinita, I. T. May 9th 1901.

In the matter of the application of Eliza Gaines for enrollment as a Cherokee Freedman; said Gaines being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Eliza Gaines.
Q How old are you? A. I dont know exactly how old.
Q How, about how old? A. I got it you can see it? (60)
Q What is your post office address? A. Bluejacket.
Q In what district do you live? A. Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Have you ever applied to be enrolled as a Freedman of any other Nation or tribe? A. No sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee freedman? A Yes sir.
Q Is your name on the roll of 1880? A. I dont know.
Q Who do you want to enroll besides yourself? A. Myself.
Q How many children? A They are on there (referring to paper)
Q Children are all grown? A. Yes sir.
~~Q The 1880~~

The 1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 census roll of citizens of the Cherokee Nation examined and applicant.s name not found thereon.

Q Did you draw what is known as the strip money? A. Yes sir.

The Kern Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 161, #3968, Eliza Gaines, Cooweescoowee district.

By Mr Smith, of the firm of Smith & Mellette, attorneys for applicant

Q Were you a slave? A. Yes sir.
Q Who was your owner? A. John Stover.
Q Was he a Cherokee citizen? A. No sir, my mistress was.
Q What was her name? A. Charlotte Stover.
Q Where were you during the war? A With my master.
Q Did you go out during the war? A. Yes sir.
Q When did you get back? A. '66.
Q Do you remember what time in '66? A I come back in the fall of '66 near Christmas.
Q Where did youcome to, what part of the Cherokee Nation? A I come to Gibson.
Q Where do you live now? A. I live at Timbered Hill now.
Q Have you a place there? A. Yes sir.
Q Farm? A. Yes sir.
Q Are you on the Kern Clifton roll? A I guess I am on it, you will have to look to see.

By W. W. Hastings- Cherokee representative.

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A Yes sir, brought us to the Chickasaw Nation
Q Did he die in the Chickasaw Nation? A. Yes sir.
Q He didn't come back here after the war? A. No sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation? A Yes sir, I hired a wagon and come on up to Gibson.

Q Now, how many come along in that crowd? A There was not nobody but my and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown ~~the~~ at that time.
Q You hired a wagon did you? A. Yes sir.
Q Do you remember the man's name you hilred? A. Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A We staid there about, we come in the fall before Christmas, staid there until I got able to travel again.
Q About how long? A. I guess it was about nearly,over six months, a year; we staid there and drawed rations.
Q Whom did you stay with at Gibson? A We was in a tent.
Q Just you two and her husband? A. Yes sir, and the children.
Q What children did you had at that time? A. I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A Yes sir.
Q Who did you work for at Fort Gibson? A. I washed for the soldiers
Q And where did you go from Fort Gibson? A. I staid there about a year and come up about Mr. Bell's
Q Mr Hooley Bell's A Yes sir.
Q Where was he living at that time? A. I cant tell you, but it was somewheres where the old Fort had been and there was coffins there and any way I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A. Yes sir.
Q How long did you stay with Hooley Bell? A. Staid until long in the fall.
Q You staid there from the summer until the fall? A yes sir.
Q About six or eight months? A. Yes sir.
Q Qnd that must have been the fall of 1867 when you staid up at Hooley Bell's? A I dont know.
Q Now, where did you go? A. I went to Chetopa and staid there,
Q Chetopa Kansas? A. Yes sir, right across the line.
Q You didn't go into Kansas? A. No sir.
Q You only went up near Chetopa on the Cherokee side? A Yes sir,on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on his farm, it was a man named Larkins.
Q Now, how long did you work for Larkins? A. We staid there a long time.
Q A number of years? A. Yes sir, until we moved down here.
Q Until you moved where you live now? A. Yes sir.
Q After you left Hooley Bell's place you went up,to Larkins place? A Yes sir.
Q Are any of Mr. Larkins folks alive now? A. Not as I know of.
Q He had a family did he? A, Yes sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A. I dont know, he hired us to work.
Q Have you ever lived in Kansas since the war? A. No sir.
Q You never went up there at all? A. No sir, just go up there and come back
Q You come back from near Chetopa to where you live now? A. Yes sir, I dont live there now, I live on Timber Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket? A Yes sir.
Q What direction is that? is it on the Cooweescoowee side? A Yes sir.
Q Towards the sunset from Bluejacket? A Yes sir.
Q Did your sister go with you all these round you are talking about? A She was with me pretty much of the time.
Q Did these children go with you? A They was with me some and I had some hired out.
Q You staid about three or four years at the Larkins place? A Yes sir
Q Did you have any neighbors around there? A There was no neighbors but one family

Q What was that family? A John Shafer.
Q Did he live in the Cherokee Nation? A. Yes sir
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three ot four miles.
Q Down on the Cherokee side? A. Yes sir.
Q South of Chetopa? A Yes sir.
Q Were you living there when the railroad come there? A. No sir.
Q Were you living there when the railroad was built? A Yes sir,there wasn't no houses when the railroad come through
Q Were you living at Larkins when the railroad come there? A Yes sir.
Q Now, Auntiemhow far from the railroad track, the M K. &. T., were you living? A I dont know, we could not hear the train
Q On the south side of the tract? A. That was on this side of the track, over in Cooweescoowee.

By Mr. Smith-

Q Who are your children? A. John Henry.
Q John Henry what? A. John Henry Nash, Julia Nash, Lizzie,Georgia Ann, Malinda,Etta,Berry the other three is dead.
Q How many? A Three is dead.
Q How many are alive now that you name? A (No response)
Q You dont mean that any of those whose names you have given are dead? A No sir.
Q Do they go by this name name; are they still named Nash, or are they married? A They are married.
Q What are the names of the girls? A Malinda Johnson, and John Nash, he goes by his daddy's name, Georgia Jones and Lizzie Martin and Carrie Harrison.
Q Are they here? A. There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of the applicant,sworn and examined by Commissioner T. B. Needles testified as follows:

Q What is your name? A. Charley Chambers.
Q How old are you,Mr. Chambers? A 78.
Q What is your post office address? A. Hudson.

By Mr. Smith-

Q Do you know Eliza Gaines or Eliza Nash? A. Yes sir.
Q How long have you known her? A. Well, I have known here somewheres about in '66.
Q Where didyou know her? A. When I first known her she was at, my first knowing her, I seen her at Fort Gibson.
Q Are you a Freedman? A. Yes sir.
Q Are you on the 1880 roll, or not? A. Yes sir.
Q Where were you during the war; did you go out of the Cherokee Nation? A. No sir; Yes sir; I went out of the Cherokee Nation,but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A Yes sir.
Q Do you remember when you got back to the Cherokee Nation? A. Yes sir
Q When was it? A I come back in '65, I come back in '65;this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you became acquainted with or see Eliza Nash, or Eliza Gaines? A. Well I come back in, along, in the summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year,the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back? A Along in the summer,spring like.
Q Of 1865? A Yes sir.
Q And the following winter? A No it was the year we called there,

that winter and the next winter, come in the same winter, that is right the samewinter.
Q Well, which was it, the following winter after you come back in the summer? A Yes sir.
Q Do you know her children, know what their names are all of them, or not? A No sir; I dont know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations, then when I seen her.

By W. W. Hastings—

Q Did you see her there then the one time, Mr. Chambers? A No sir, I Seen her there as much as twice I know of; it was the first time I saw her there it was.
Q That was in the fall after you come back in the spring or summer? A Yes sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q Are you positive you saw her? A Yes sir, I am positive I saw her there
Q Are you positive about the year you saw her? A. It is the same winter after I come there; you see I staid there all that summer down there to Fort Smith and along in the fall I come up here.
Q And that is the fall you saw her? A. Yes sir, that winter I seen her
Q You know that? A. Yes sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865? A Yes sir
Q And say it was the next winter you saw her? A. Yes sir, I staid that summer there at Fort Smith in the bottom, understand me right; I staid there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I staid there all fall and that fall I went down to Gibson, riding about as usual and staid around there a little while and I seen her and I was a pretty good hand to notice women.
Q And you noticed her among all that bunch? A. Yes sir.
Q You remember seeing her? A. Yes sir.
Q Well when did you next see her? A. I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A. I cant call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know dont you, dont you recall?
Q I was not there? A There at Fort Gibson.
Q When did you next see her? A I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You dont know where she had been in the meantime? A. No sir; but I dont think she had been anywhere but, I heard of her living up by William Tucker's
Q You never did see her up there? A No sir.
Q Have you ever been arrested? A Yes sir.
Q What for? A. For several things.
Q How many times? A. Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What court? A Cherokee; arrested one time by the United states court
Q What for? A. For shooting a man.
Q What was done with you? A. Never done anything with me.
Q Did they try you? A. Yes sir never done anything.
Q What did they do with you in the Cherokee court? A Nothing, turned me aloose and let me go home.
Q Never was convicted? A. No sir.
Q You don't remember seeing anybody but this woman in 1866? A Oh, I seen lots others.
Q I mean of her family? A Id I did I didn't know em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B.

Needles, testified as follows:

Q What is your name? A. James Alberty.
Q What is your post office address? A. Chouteau.
Q How old are you,James? A. I am near 70 or older,I dont know.
Q Are you a citizen of the Cherokee Nation? A Yes sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No sir.

By Mr. Smith-
Q Do you know Eliza Gaines? A. Yes sir.
Q Sometimes called Nash? A I know her
Q How long have you known her? A. I dont knoe how long, I known her when she was with her old master, I dont know how long that has been.
Q Who was that? A Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes sir south.
Q When didyou return to the Cherokee Nation? A. I returned in '66, before the Treaty was made
Q Did you know where Eliza Nash was at that time? A (No response)
Q When did you see Eliza Nash? A When I come back.
Q When was the first time you saw her? A. At Gibson
Q When? A In '66.
Q Can you state at what time it was? A. In the fall.
Q Did you know any of her family,any of her children? A No sir, I could not tell anything about them.
Q Did you know her sister? A.Yes sir.
Q What was her sister's name? A. Lydia was one and Jane she was one and if I dont mistake, Mary was one, that I recollect.
Q Do you remember seeing any of them? A. Yes sir.
Q Who did you see? A. Lydia that I noticed.
Q That you remember? A. Yes sir,
Q Do you know of your own personal knowledge whether they, or any of them,went out ot the CherokeeNation,and if so, when they came back? A No, sir I dont know

By W. W. Hastings-

Q Whom did you belong to when the war broke out? A. John Alberty.
Q John Alberty sold you out of here before the war? A. No sir,he didn't; he sold Dave though.
Q You swear that you belonged to him at the time of the war? A Yes sir I never belonged to anyone else that I know of.
Q He never sold you out? A. No sir.
Q Where were you living when the war come up? A Right at Pryor creek right at the toll bridge.
Q Where was this woman living when the war came up? A At Stover's.
Q How far was that from where you were living? A. I trained horses right there by Wilson's
Q Whom did you train horses for? A. Trained horses for Jim Kell.
Q And you knew Eliza before the war? A. Yes sir.
Q What were you doing at Fort Gibson when you saw her there? A. Nothing, just riding around getting drunk; that is all I dome in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when youssaw her? A She was there washing, I dont know where she was living.
Q How do you happen to remember seeing her? A I stopped there where she was and talked with her
QDid you see her there just once? A The next time I saw her just ask me
Q Where did you see her next? A. On Cabin creek
Q Where is that? A. I dont knoe which way it is from here.
Q How far from Vinita? A Good ways.
Q Near whose place? A. Bill Tucker's
Q On Cabin creek? A. Yes sir.
Q When was that you saw her there? A. I dont know, it may have been a year or maybe more.
Q She was living up thre then? A. Yes sir, in the house not far from Mr. Tucker's
Q Where did you see her the next time? A. Where she lives now.

Q About how long was that after that? A. I dont know.
Q She moved from where she lived on Cabin creek to where she lives now? A Yes sir.
Q West of Bluejacket? A. Yes sir, west of Bluejacket.
Q Jim were you ever tried for anything by the Courts? A No sir
Q Never was arrested? A. No sir not by the courts, I was not.
Q By Marshals? A No sir, I used to be a Marshal myself , I never was arrested for any crime or any kind, never was.

Com'r Needles,-

Eliza Gaines applies for the enrollment of herslef as a Cherokee freedman. Her name is not found upon the authenticated roll of 1880 or any polls now in the possession of this Commission except the Kern Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will now be placed upon a doubtful card for the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail, If at any time she desires to introduce any additional testimony the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson,

Subscribed and sworn to before me this 10th day of May, 1901.

(signed) C. R. Breckinridge,
Commissioner.

* * * * * * * * * * * * * * * * * *

I , Chas. von Weise, upon my oath state that the foregoing is a true copy of the original.

Chas von Weise

Subscribed and sworn to before me this the 25th of July, 1901.

M D Green
Notary Public

Commissioner.

DEPA... ...
COMMISSION TO ... FIVE C...
FILED
SEP 7 1901

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[illegible]

[illegible]

[illegible] transcript of the record, stars the point of the case, [illegible] point, [illegible] to the Civil Service Tribunal, [illegible] and [illegible] to the [illegible] point, [illegible] case, [illegible] Tribunal.

[illegible]

[illegible]

[illegible]

[illegible]

To be filed with the case of Lydia Carter

C.F.D.# 716

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T. May 8th 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A. Bluejacket.
Q What district do you live in? A. Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you desire to enroll besides yourself? A I got three children
Q What are the names of your chi ldren? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A. 14.
Q The next one? A. Leo.
Q How old is Leo? A. 13.
Q The next one? A Morrison.
Q How old is Morrison? A. Ten.
Q Is that all? A. Yes sir.
Q What is your wife's name? A. Bell Thompson.
Q Is she a citizen? A. No sir.
Q Is she the mother of these children? A. Yes sir.
Q What was her father's name? A. Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe?
A No sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No response)
Q Kinda half way? A Yes sir, just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation? A. Yes sir
Q Is your name on the roll of 1880? A No sir.
Q Is it on the Kern Clifton roll? A Yes sir.
Q Were you married to Bell Thompson? A. Yes sir.
Q Have you any certificate of marriage? A. No sir.
Q Have you any proof of marriage? A. Yes sir.
Q Whom can you prove your marriage by? A. Her sisters.
Q Are they here? A. Yes sir.

JOHN NASH being sworn and examined by Commissioner T. N. Needles testified as follows:

Q What is your name? A. John Nash.
Q What is your age? A. 35.
QWhat is your post office address? A. Bluejacket.
Q Do you know Berry Thompson? A. Yes sir.
Q Do you know his wife, Bell? A Yes sir.
Q Do you know whether they were married or not? A. Yes sir they was married.
Q How do you know? A. Old man Bluejacket married them.
Q Did you see them married? A Yes sir.
Q Was Bluejacket a minister? A Yes sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A.Yes sir.
Q Is Bell Thompson living now, his wife? A. Yes sir
Q Did they have any children? A. Yes three.
Q Born to them while they were living together as man and wife? A Yes sir.
Q What is the names of them do you recollect? A. Elmer.
Q Leo? A Lee and Morris.

BERRY THOMPSON, the applicant, re-called, testified as follows: Examination by Mr. Smith, of the Firm of Smith & Mellette, Attorneys for Applicants:

Q Wow old did you say you were, Berry? A. 46.
Q Were you a slave? A. Yes sir.
Q Who was your owner? A. John Stover.
Q Are you related to Eliza Nash, or Eliza Gaines? A I am her brother
Q Did you go out of the Nation, or were you taken out of the Cherokee Nation during the war? A. Yes sir.
Q By whom were you taken out? A. My Master.
Q When did you return? A I come back when she did, '66
Q When who did? A. My sister, Eliza.
Q When your sister Eliza Gaines, returned? A. Yes sir.
Q Have you a farm? A. Yes sir.
Q Where is it? A. It is three miles west of Bluejacket.
Q How long have you had it? A. About 15 years.
Q You say you are on the Kern-clifton Roll? A Yes sir.
(By W. W. Hastings, Cherokee Representative)
Q Where were you married? A. I was married about three miles and a half from Bluejacket at the lower end of Timbered Hill.
Q You had heard the statement of your sister, Eliza and sister, Jane; did you go the rounds with them? A. Yes sir.
Q Did you ever live in Kansas? A. I worked up there.
Q Where? A. I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A. About twenty miles.
Q How long did you work up there? A. I worked there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A Yes sir.
Q Did you make your home with your sister before your marriage? A. I worked out a good deal of the time, worked at Vinita, some, I lived with my mother.
Q What was your mother's name? A. May Stover.
Q Did she come back from Texas with you? A. Yes sir.
Q With your two sisters too? A. Yes sir.
Q Your mother was along too? A. Yes sir.
Q Is your mother alive? A. No sir.
Q Where did she die? A. She died up at Timbered Hill.
Q About how long ago? A. About 13 years.
Q You made your home with her until she died? A. Yes sir.
(By Smith)
Q Where was it your mother died? A. She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A. Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not? A. I dont know for sure whether she was or not.
Q How long has it been since she died? A. About 13 years.

The 1880 authenticated roll of Cherokee freedmen examined and applicant's name not found thereon.
The Kern-Clifton roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:
page 162 #4008 Jerry Thompson, Cooweescoowee district.
page 162 #4009 Elmer Thompson, Cooweescoowee district.
page 162 #4010 Lee Thompson, Cooweescoowee district.
page 162 #4011 Morrison Thompson, Cooweescoowee district.

Com'r Needles.- Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kern-Clifton pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the counsels

In this case, the record in the case of Eliza Gaines, D.#220, is referred and made a part of the record in this case. The names of Berry Thompson and his three children, as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J.O. Rosson

Subscribed and sworn to before me this 10th day of May 1901 .

(Signed) C. R. Breckinridge,
Commissioner.

§ § § § § § § § § § § § § §

I, Chas. von Weise, upon my oath state that he foregoing is a true copy of the original.

Chas. von Weise

Subscribed and sworn to before me this 5th of September, 1901.

Commissioner.
T M Dreen
Sp. A

D. .....

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on.....

.....

by delivering a true copy thereof on the

.....day of .....A. D. 190....

Given under my hand this.....

day of.....A. D. 190....

.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the

.....day of SEP 23 1901, 190....

Mellett & Brook

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the.....day of ..... A. D. 190....

.....

Subscribed and sworn to before me this .....

.....

Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 24 1901

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Lydia Carter for enrollment as Cherokee citizens:

Case No. D 716

To Lydia Carter or Mellette & Smith her Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct 2 12th 1901. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept. 22d 1901.

W. W. Hastings

Attorneys for the Cherokee Nation.

7 C7N716

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
OCT 11 1901

ACTING CHAIRMAN

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita I.T. Oct 11 - 1901.

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Lydia Carter for enrollment as Freedmen of the Cherokee Nation.

Mellette Smith
Attorney for applicant,

No. C.T. 10.716

interested, and because of the further fact that it is [illegible] competent and immaterial, and there are living witnesses [illegible] from the same facts can be established--the [illegible] [illegible] and others are now living, who know the same facts [illegible] [illegible] Johnson knew and [illegible] is now in the town [illegible] [illegible] purpose of [illegible] witnesses in [illegible] [illegible] Conclusion: The objection will be [illegible], and [illegible] will be filed and considered [illegible] [illegible] Witness: No, [illegible] [illegible] the affidavit of Nancy Jackson which is a [illegible] correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following pending cases. D.#621, D.#[illegible], D.#[illegible], D.#[illegible],

File with case of Lydia Carter, C.F.-D.#716.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE bei ng duly sworn, testified as follows on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near w here Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, si r, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
Q When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there i n '82.
Q Well, were you over the country where they located there, where their ~~xxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Ti mbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquaint ed with Eliza Gai nes? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquaint ed with them when they first came up there about Bluejacket or not, do you? A I could not state positi ve when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the wor ld about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now.
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the state.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I believe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MCLIETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fact, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it?
A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 years old.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir, that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir/
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United states citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.
MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extended from Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1862?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~Q~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behald of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to September.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn't nothing there but a stockade built there during the war, there was a right smart of trouble around ther and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT:

Witness: L. B. Bell; 62; Vinita.

Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from? A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time they got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there; in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.

MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for herbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In !68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~xxxxx~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/
Subscribed and sworn to before me this September 11th, 1389.
John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1389, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation oBject to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

"Oil City Blade"

"Oct 1. 1. 1.

F. D-220.

To be filed with C. F. D. 247, Lydia Carter et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence the following decision of the Commission on Citizenship rendered on the 28th day of September, A. D. 1882, as found of record from docket and decisions, Commission on Citizenship, from page 118. Said judgment is signed by Thomas Tehee and Alex Wolfe, and countersigned by D. W. C. Duncan, Clerk of the Commission, and reads as follows:

"Office Commission on
Citizenship, Tahlequah
C. N. September 28 1881.

No. 112.	Mary Stover,	
	Eliza Stover,	
	Jane Stover,	PETITION FOR CITIZENSHIP.
	Betty Stover,	
	Lydia Stover,	
	Angelina Stover,	J. M. Bryan,
	Mary Stover,	Atty for Claimant.
	vs	
	Cherokee Nation.	

Continued by the plaintiff.
Oct. 3, 1881.
Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has that been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of hem are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lyain Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Hellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1903.

B C Jones

Notary Public.

CHAIRM

1902

AIR

MAIL

MAIL

MAIL

F. D-220.

To be filed with C. F. D. 716.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Eliza Gaines for the enrollment of herself as a Cherokee Freedman.

SUPPLEMENTAL to D-220.

APPEARANCES:
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Continued by Commission till Sept. term, Feb. 3rd, 1882.
Submitted by Claimant Sept. 20th, 1882.
Submitted by the Solicitor September 28th, 1882.

And now on this 28th day of September, A. D. 1882, this cause coming on for final hearing, and all the evidence in the case being duly read and considered by the Commission, it was adjudged and determined by the Commission on Citizenship that the claimants, being colored persons and having failed to return to the Cherokee Nation within six months from the 19th day of July, 1866 as provided by the Treaty of 1866, are not entitled to the rights and privileges of Cherokee Citizenship within the Cherokee Nation, and that their claim therefor should be and the same is hereby rejected; said Claimants being the above named Mary Stover, Eliza Stover, Jane Stover, Bessy Stover, Lydia Stover, Angelina Stover, and Mary Stover.

Thos. Tehee, Pres. of Commission.
Alex Wolfe, Commissioner.
T. F. Thompson, Commissioner, Dissenting.

D. W. C. Duncan,
Clerk of Com."

MR. SMITH: The counsel objects to the above offer of testimony and for reason states that there is no showing that the persons named in said alleged judgment are identical with the applicants herein or either of them; that the same is immaterial, incompetent, irrelevant, and does not tend to prove any issue in this case, and because the same is not properly authenticated and proven, and because a copy of said judgement is not the best evidence thereof, it appearing that the entry and book itself would be better evidence, and because it is incompetent to prove said alleged judgment in the manner and form sought to be used in this case.

W. W. Hastings, being first duly sworn testified as follows:

My name is W. W. Hastings; I am 35 years old; my postoffice is Tahlequah. This book is a book that is now in the custody of this Commission, being the Commission to the Five Civilized Tribes, and given them by the officials of the Executive Department of the Cherokee Nation, and this judgment that is introduced here is the original judgment from that book.

MR. SMITH: Mr. Hastings, this is not signed in the handwriting of the men whose names appear at the bottom of the record, is it?
A Not signed in the handwriting?
Q Yes. A Well I am not familiar with their handwriting.
Q Well look at it; don't you take all those names to be signed by the same person? A I take them all to be signed by D. W. C. Duncan there.
Q The same man that wrote them? A Yes, sir.
Q The same handwriting; all seems to be in the same handwriting?
A Yes, sir, seems to be all written by the same man.
Q What do you call this book? A That is a citizenship judgment book.
Q Of what date and what year? A Well it takes from 1880 to 1884, inclusive.
Q Now this book is in the custody of the Commission to the Five Civilized Tribes? A Yes, sir.
Q Now what is this little book we had here a while ago, that has the decisions of 1871, what is that called? Has hat been introduced in this case? Do you want that to be taken down as a record in this case? That other book that's introduced from which I read those judgments, are judgments which were rendered by the Supreme Court in 1871, that was setting as a court of Commission, with jurisdiction to try and determine all of these doubtful cases, not only Cherokee but colored.
Q How many of those books which show judgments against freedmen are there? A I wouldn't know till I count them up; I don't know but the three, right here now present, I think there's one more that I know of.
Q Are all of those in the custody of the Commission? A No, sir, some of hem are in my custody.
Q Which ones are in your custody? A Well all that I spoke of here this morning, I think, except this one.
Q Except this one? A The one at the bottom, this one. - I am mistaken, this here top one is in the custody of the Commission.

COMMISSION: This testimony will be filed in the folfowi following freedmen cases: Jane Webb, D-221, Mary Mayberry, D-222, Berry Thompson, D-223, Julia Nash, D-224, Georgia Jones et al, D-225, John H. Nash et al, D-226, Malinda Jones et al, D-227, Eliza Grooms et al, D-228, Berry Nash, D-229, Edward

Brown et al, D-247, Lydia Carter et al, D-716, and in the case of Eliza Gaines, the same being the case at bar, D-220. It appears from the records of the Commission that the above applicants are all represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 29th day of May, 1902.

(SEAL) (Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Arthur G. Evans

Subscribed and sworn to before me this 18th day of Aug., 1902.

B C Jones

Notary Public.

the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February 1896, and as the Commission must take judicial notice of the judgment roll of said court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

Freed D 830

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Lydia Carter, D 716;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

~~In the case of Moses Whitmire, trustee, vs Cherokee Nation,~~ on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Mabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 235
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 247
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 515
Harriett Tucker et al	Cherokee Freedmen D 697
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Mabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Mabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Rosie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Ollie and Lucy Nash; by Malinda Johnson, for herself and minor children, Lettie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, were

POOR ORIGINAL -
BEST AVAILABLE COPY

filed with the Commission showing the birth of George and Julia Johnson; by Ellen Crosby for herself and minor children, Martha, Dora, Peter W., Lorretha and Emma Crosby; by Henry Nash for himself; by Edward Nash for himself; by Curtis Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Israel Martin, for himself, his wife, Lassie, and minor children, Maggie, Louie, Laura and Lottie Martin; by Nellie Brown for herself and minor children, Tom, Moses, Jennie, William and Michael Brown; by Harriet Tucker for herself and minor children, Glen Martin, Anna Brownlow, Henrietta Bean, George Tucker and Floyd Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah J. Tucker; by Lena Carter for herself; by Allie Holden, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Allie Gaines, June Webb, Henry Thompson, Lydia Carter, Aaron Martin, George Martin, Israel Martin, Julia Martin and Georgia Jones are the principal applicants herein; and that all the other applicants in these several cases have been born since 1866 and, with the exception of Allie Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during said rebellion, but returned thereto in 1865.

The evidence further shows that Allie Hunter is the daughter of Rose Hunter, sister of Allie Gaines, one of said principal applicants, and claims right to enrollment through her; that the said Rose Hunter was the slave of a Cherokee citizen at the commencement of the rebellion, and was residing in the Cherokee Nation on July 19,1866.

The said Alice Martin was duly identified on the 1880 authenticated roll of the Cherokee Nation as an adopted colored citizen.

All of the applicants herein have resided in the Cherokee Nation since 1866, or from date of birth where born since the year 1866, up to and including the date of the application herein, excepting temporary trips of a temporary nature outside of the territory; that all of said applicants were residing in said Cherokee Nation on June 28,1898.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1901, and that the applicant, Allie Crosby, died in October, 1901; and that the applicant, Emma Crosby, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall

be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Grames, Jane Webb, Mary Mabry, Frank Mabry, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John M. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Melinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Rona Grooms, Peter W. Grooms, Lauretha Grooms, Perry Nash, Howard Nash, Carrie Harris, Delilah Harris, Ella Hughes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Michael Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Lydia Carter, Allie McElroy, Ruth Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. H. Stanley, Commissioner.

Muskogee, Indian Territory,

this Nov 3-1903.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F. D-220
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dena, Peter W. and Leuretha Grooms, Berry and Edward Nash , Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 5th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Hughes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah M. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MEADLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

Edgar Smith,

Attorney for Eliza Gaines, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5th, 1903, granting, among others, the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McK., Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W., and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordan Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza and Ennis Grooms. You have heretofore been furnished with a copy of the record of proceedings.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

Edgar Smith No. 2.

The decision, with the record of proceedings had in these cases, has this day been forwarded to the Secretary of the Interior for review. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. NEEDLES,

Commissioner in Charge.

Register.

Enc. D-96.

COPY.

Cherokee Freedmen
D-716.

Muskogee, Indian Territory, September 30, 1903

Lydia Carter,

Coffeyville, Kansas.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register.
Enc. D-92

Chairman.

Refer in reply to
the following:
LAND
63877-1903.

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Allie McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dameron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Nellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John H. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
D-716.

Muskogee, Indian Territory, April 18, 1904.

Lydia Carter,

Coffeyville, Kansas.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220, et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Perry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor, and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220 et al.

Edgar Smith,

Attorney for Eliza Gaines et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley, and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Louretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Edward, Henry, Stella and Laura Brown, Lydia Carter and Jordon Harper, as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ---------- Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ----------Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ---------- Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie S West,
F-1417 ---------- Callie S West,
F-1494 ----------Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action on the allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Lee Thompson,
3537	Merrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Leuretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Roger Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah V. Tucker,
3604	Lydia Carter,
3605	Allie McIlroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callie West,
3877	Callie West,
4079	Henry West,
4080	Callie West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West,

Roll No.	Name.
4088 ----------	Martha West.
4089 ----------	Vinita West.

Respectfully,

LS

Commissioner.

Muskogee, Indian Territory, November 26,1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "To review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Raines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Groom and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 18, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and June Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll?

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905, (Land 38933-1905) and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I.T.D. 7653-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 5, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

Secretary-6

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3876 to 3879, inclusive, be granted.

Prior to the filing of this motion to review applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. R-40

Commissioner

COPY

Land
106463-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 24, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer and supplemental brief filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental brief filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the Department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

Freedmen approved by the Department September 18, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared op osite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee Freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee Freedmen citizenship by the Cherokee Commission on Citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James, Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testiyfying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as as witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearingsis so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by theattorneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

VPJr

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106400-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

Cherokee F.
1302

COPY

Muskogee, Indian Territory, March 7, 1907.

Lydia Carter,

Coffeyville, Kansas.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby.

JMH

Commissioner.

Cherokee F.
1302

COPY

Muskogee, Indian Territory, March 7, 1907.

Lydia Carter,

Coffeyville, Kansas.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

SIGNED Tams Bixby

JMH

Commissioner.

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review andreject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl.H-20
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby,

Commissioner.

Encl.H-21
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedman 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John H. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedmen 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907. GAW

DEPARTMENT OF THE INTERIOR,

I.T. 47948-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F 1302.

Muskogee, Indian Territory, June 8, 1907.

Lydia Carter,

Coffeyville, Kansas.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-21.
S.W.

Acting Commissioner.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Cher Fr 1303

See Cher Fr 1302

Cher Fr 1303

3

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T. June 13th 1901.

In the matter of the application of Allie McElroy for the enrollment of herself and one child as Cherokee freedmen; She being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Allie McElroy.
Q How old are you? A. 24.
Q What is your post office address? A. Coffeyvillee.
Q Do you apply as a Cherokee freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. One little girl.
Q What is the name of this girl? A. Etta Taylor.
Q Are you married? A. Yes sir.
Q What is the name of your husband? A. The one I has now is named Jim McElroy.
Q How old is this child Etta Taylor? A. 6 years old.
Q Were you ever married before? A. Yes sir to Will Taylor.
Q Is he living? A. I guess so..
Q You are not living with him? A. No sir.
Q What is your mothers name? A. Liddy Carter.
Q Your fathers name? A. Jordan Harper.
Q Is the Liddy Carter who just enrolled, your mother? A. Yes sir.
Q Where were you born? A. On Cabbin creek.
Q Where have you lived all your life? A When I first knew anything I was in Vinita.
Q Cherokee Nation? A. Yes sir.
Q Where do you live now? A. On Snow creek.

The Kern Clifton roll examined, applicant found as follows:
Page 162 No. 3999, Allie Harper, Cooweescoowee district.

Applicant not found on the 1880 and 1896 rolls of the Cherokee Nation

By W. W. Hastings, Cherokee representative-

Q Have you a brother older than you? A. Yes sir.
Q What is his name? A. Will.
Q How much older is he than you? A. I dont know.
Q About how many years? A. I dont know.
Q You dont know how much older he is than you are? A. No sir.
Q How big was he when you were born? A. I dont know.
Q Is he as much as five years older than you? A. I guess so.
Q What is your jest judgment? A. I dont know.

By the Commission-

Q You and he were raised together? A. Yes sir.
Q In the same family? A. Yes sir.
Q And you never heard how much older he was than you? A. No sir.

By Hastings-

Q Where was Will born? A. On Cabbin creek.
Q Is he as much as 30 years older ~~xxxxxx~~? A I guess he is.
Q Where were you married? A. The last time I was married at Galena.
Q Kansas? A. Yes sir.
Q Where were you married the first time? A. In the Choctaw Nation.
Q Who was your first husband? A. Tayler.
Q When you married him, how old were you? A. I was 16.
Q Where was your husband's father's family from? A. Well I.
Q Where was Etta born? A. In the Choctaw Nation.

Q When you married how old were you? A. I was 18.
Q Where was Etta born? A In the Choctaw Nation.
Q What was your husband Taylor's first name? A. Will.
Q How long had you known Will Taylor before you married him? A. Not long
Q In what town did you marry him? A. Hartshorn.
Q And you married the next time in Kansas? A. Yes sir.
Q How long ago was it you married the last time? A. Two years ago.
Q How long did you know your second husband before you married him? A I dont know sir.
Q Where did you get your mail a year ago to-day? A. At Coffeyville.
Q Where did you get it two years ago to-day? A. I dont know as I got any.
Q What occupation does your husband follow_? A Farming.
Q Where did he farm last year? A. On Snow creek.
Q Where did he farm the year before that? A. I dont know.
Q Where did he farm the first year that you married him? A. On Snow creek.
Q Where were you the first time you remember? A. At Vinita.
Q How long did you oive there? A. All my life until I left there.
Q How long were you in the Choctaw Nation? A. Not long.
Q What were you doing there ? A Working.
Q Was your mother there? A. Yes sir.
Q Was your brothers and sisters that were younger than you there? A. Yes sir.
Q Where was Will then? A ~~xxxxxxxxxxxx~~ He was down there too.
Q Is he down there yet? A. I dont know.
Q Did he marry there? A. No sir.

By Commission.

Q You dont know much of anything do you? A. No sir.
Q You say you were married two years ago ? A Yes sir.
Q Was this child born before you married Will Tqylor? A. No sir.

By Com'r Needles,-

Allie McElroy applies for herself and one child, Etta Taylor; she avers that she first married one Will Taylor and since then she has married one Jim McElroy, her present husband. She avers that she is the child of Liddy Carter who is listed for enrollment on Cherokee Freedman D. Card #716 and the testimony taken in that case is hereby referred to and will be made a part of the record in this case, and a copy thereof will be filed with ~~xxxxxxxxxx~~ this case. The said Allie McElroy is identified on the Kern Clifton roll but not on the authenticated roll of 1880 or the census roll of 1896. Her child Etta Taylor is not found on any of the rolls of the Cherokee Nation in the possession of the Commission and it will be necessary for her to file satisfactory proof of birth as to her. Now the said Allie McElroy and her said child Etta Taylor will be listed for enrollment as Cherokee freedmen on a doubtful card and she will be notified by mail of the final decission of the Commission in their cases.

* * * * * * * * * * * * * *

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and

2.

correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 27th of June 1891 at Nowata, I. T.

Commissioner.

B 30717

DEPARTMENT OF
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 12 1901

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date JUN 12 1901

Post Office Tyreyville Ks

District

1. Name Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

11. Name of wife Age 24

Owner's name Citizenship

Year Page 52 No. 3095 District Cos

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

21. Year Page No. Dist. 6

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by Stenographer

Not on roll as citizen

2. Aff of birth received

Atty. 2-16

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 7 1901

ACTING CHAIRMAN.

Received.

Inclosed herewith is the statement of the Choctaw Nation, showing its entire and complete transcript of the proceedings in the case of Mary Jane Pigeon, petitioner, vs. Choctaw Nation, respondent, as the same appears of record in the office of the Commission to the Five Civilized Tribes.

Respectfully,

Tams Bixby,
Commissioner.

Hon. Secretary of the Interior,
Washington, D. C.

Enclosure.

Transcript and amount to before me this 7th day of September, 1901.

Subscribed and sworn to before me this 7th day of September, 1901.

Notary Public.

To be filed with the case of Allie McElroy C.F.D. # 717

Mellette & Smith for the applicant
W. W. Hastings for the Cherokee Nation

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T. June 12th 1901.

In the matter of the application of Lydia Carter for the enrollment of herself as Cherokee freedman; she being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Liddy Carter.
Q How old are you? A. About 48.
Q What is your post office address? A. Coffeyville, Kansas.
Q What district do you live in? A. Cooweescoowee.
Q In the Cherokee Nation? A. Yes sir.
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you desire to have enrolled besides yourself? A. My children
Q How many? A. Five.
Q Are you married? A Yes sir.
Q What is your husband's name? A. Charles Carter.
Q Is he a citizen? A. No sir.
Q Give me the names of your children? A. I have no children under age
Q Is your name on the roll of 1880? A No sir.
Q Is it on any of the rolls of the Cherokee Nation? A. I ought to be on some of them.

Applicant's name not found on the roll of 1880.
Kern-Clifton roll examined and the name of applicant found as follows: page 162 No.3998, Liddy Carder (or Middleton) Cooweescoowee dist.
Wallace roll examined and applicant found as follows: page 130 #2715, Lydia Middleton, Cooweescoowee district.

Q How did your name happen to be Middleton? A. I was married to him.
Q What is your husband's first name? A. Tobe.
Q Are you separated from him? A. Yes sir.
Q What is your second husband's name? A. Charles Carter, is my present husband's name.
Q You were married twice? A. Yes sir three times.
Q What was your first husband's name? A. Jordan Harper.
Q Is he living? A. No sir.
Q Who was your second husband? A. Tobe Middleton.
Q And your present husband is named what? A. Charles Carter.
Q Is Charles Carter living? A. Yes sir.
Q He is a state man? A. Yes sir.
Q When were you married to Charles Carter? A. 7 years ago.
Q The first time that your name was ever Carter was seven years ago?
A Yes sir.

(By Smith)

Q Were you a born slave? A. Yes sir.
Q Who did you belong to? A. John Stover.
Q What was John Stover's wife's name? A. Charlotta.
Q Were they citizens of the Cherokee Nation? A. Yes sir.
Q Were they Cherokee Indians? A I dont know if both of them was or not.
Q Was either of them? A. I guess they was.
Q Recognized citizens of the Cherokee Nation? A. Yes sir.
Q How old are you now? A. I don't exactly know, 48 or 9.
Q Where were you living when the war commenced? A On Baties' Prairie
Q Where is Baties' Prairie? A At the old home place.
Q Where was that, in the Cherokee Nation? A. Yes sir.
Q Have you any brothers and sisters? A. Yes sir.
Q Name them? A. Berry Thompson a half brother of mine, and Eliza Gaines

is my full sister. Angeline Stover is my full sister; Rose, and my brother that got killed.
Q What was Rose's name? A. Rosa.
Q Rosa what? A. Stover.
Q Did she ever marry? A. I don't know about that.
Q Did you go out of the Cherokee Nation during the war? A. Our master carried us out and brought us back.
Q When did he bring you back? A. In '66.
Q Who with? A. With his family, I dont know who all, all of them.
Q Who do you mean by them? A. His children and their children.
Q Did his children come back with you? A. Yes sir.
Q With reference to your family, state which ones your were brought back with? A. Eliza Gaines, Jane Webb, Berry Thompson and my mother.
Q Where have you lived since you were brought back? A When we first come back I stopped with my sister Eliza Gaines in Gibson, I was small
Q Is she older than you or younger? A Older.
Q Where do you live now? A. On Snow Creek.
Q In the Cherokee Nation? A. Yes sir.
Q How long have you lived there? A Since this K. C. roll, about 4 years I guess.
Q How long have you been married to Carter? A. Bout 7 years in December
Q Have you and Eliza Gaines the same father and mother? A. Yes sir.
Q You said Berry Thompson was your half brother, did you have the same mother? A. Yes sir.

(By W. W. Hastings)

Q What is your oldest child's name? A. Willie.
Q The next one? A. Jimmie.
Q Is Jimmie dead? A. Yes sir.
Q How old is Willie? A. I dont know.
Q About how old? A. I dont know his age.
Q Is Will married? A. No sir.
Q Living with you? A. No sir.
Q Is he grown ? A Yes sir.
Q About how long after the war was he born? A. I dont know how long after the war.
Q As much as ten years? A. He was born on Cabin creek.
Q Near what place on Cabin creek? A. At Mrs' Gains on the Larkin place.
Q What kind of a house did you live in? A I dont know.
Q Where did you get your water?A. In the creek.
Q In the Creek? A. I suppose it was.
Q Not certain are you? A. No sir; in the summer we got it out of the creek and in the winter they cut a little hole in the ice and got it out of the creek too.
Q How long did you stay there? A. I dont know, seemed like it was a long time.
Q As much as 6 months? A I dont know, it seemed a long time cause I didn't like it there.
Q What was your husband's name then? A. Harper.
Q Is that Will's father? A. Yes sir.
Q Who married you and Jordan Harper? A. Joe Shields.
Q Where were you married to him? A. In Chetopa Kansas.
Q Do you know what year? A No sir.
Q How long had you been in this country when you married Harper? A I dont know.
Q About how many years were you living up here? A. I dont know.
Q About how many years after the war was it? A. I dont know.
Q You dont? A No sir.
Q What was your mother's name? A Mary Stover.
Q How long did you live with Harper? A. I dont know.
Q Where did you live with him? A. On Cabin creek.
Q Whose place? A. A little place of our own.
Q Where did he die? A. In Chetopa.
Q In whose house in Chetopa? A. I dont know whose house it was
Q How far was your place from Chetopa? A. About 13 miles.

Q How long did you live there on Cabin creek? A I dont know,until my children was born.
Q How many did you have born there? A. Seven.
Q Who were you heighbors? A Bill Tucker, a woman named Summers and Mr. Barker.
Q When did you marry Middleton? A. I dont know.
Q Where did you marry him? A. In Vinita.
Q Who married you? A. Fred Martin.
Q The father of this Fred Martin around here and of Amy Bean? A. Yes sir.
Q Where were you married to Carter? A In the Choctaw Nation.
Q Who married you? A. A man named White.
Q And you say you came back with your owners family to the Cherokee Nation? A Yes sir.
Q And your owner was John Stover? A. Yes sir.
Q He brought you back to what place? A. First to Red River and then he died and then we come on to Fort Gibson.
Q Then he didn't bring you back here? A. Part of the way until he died.
Q What year did he die? A. I dont know, dont know years now less they is told me.
Q What town in the Cherokee Nation did you first come to? A. Ft.Gibson I guess.
Q You guess?A Not much of a town then.
Q Have you ever been there since? A. Yes sir.
Q When? A The last time was when the soldiers was settled there.
Q What time of the year was it that you first come to Gibson? A. I dont know.
Q Who did you live with there? A. Eliza Gaines.
Q How long did you stay there? A I dont know.
Q Stay there a week? A. Must have staid there that long.
Q Was it longer or shorter than that? A. I dont know.
Q What is your best judgment about it? A. I dont know.
Q Was it a year? A. I dont know.
Q Was it inside of a year? A. I dont know.
Q Was it five years? A. I dont know.
Q Was it inside of five years? A. I dont know.
Q What is your best judgment about it? Tell me about how long you staid there? You would know the difference between staying there a week and five years wouldn't you? A. If I was there now I would know, but I dont know anything about when I was a child.
Q You dont know if it was a week or five years? A. No sir.
Q You dont know what sort of a house you lived in? A. No sir.
Q Was your mother living then? A. Yes sir.
Q She was? A. Yes sir.
Q Did you know anybody about Fort Gibson then? A. No sir I dont remember any of them.
Q Where did you got from Fort Gibson? A. Come up here near the line on the Larkins place.
Q How many years was that after the war? A. I dont know sir, something I dont know nothing about, it seemed like we was living around all the time until I settled down and married.
Q What kind of a field was it at the Larkins place? A. I dont know.
Q What kind of a house, a painted house or an unpainted house? A. I dont know.
Q You dont know if it was a log house, a brick house or a frame house? A I dont remember.
Q How long did you live there? A. I dont know.
Q Well about how long? A Until I married and moved off to myself.
Q You was a grown woman when you married? A. Yes sir.
Q You were married the last time in the Choctaw Nation? A. Yes sir.
Q Do you know Martha Bacon? A. Yes sir I know her, Mrs. Trott told me she was at South McAlister.
Q She was your young mistress? A Yes sir.

Q Did you know her in the Choctaw Nation? A. Yes sir.
Q Did you see her after the war? A. No sir not since we come back from Texas.
Q Near what town in the Choctaw Nation did you marry? A. Hartshorn.
Q What children have you born to you by your last husband? A. I haven't any.
Q Where is Charles Carter now? A. At home.
Q Where is that? A. On Snow creek.
Q How long have you been on Snow Creek? A 2 or 3 years, I guess going on 4 years now.
Q Have you got a place up there now? A. Yes sir.
Q You have lived there since the last payment? A. Yes sir.
Q Where did you come from to Snow Creek? A Vinita.
Q How long did you live in Vinita? A. About 20 years.
Q Continuously? A No sir but the biggest part of the time.
Q What sort of a house did you live in on Cabin creek? A. A little log house.
Q Did you make any sort of a crop there? A. Just what we could with a hoe.
Q Never had a team? A. No sir not then.
Q Jordan Harper never had a team? A No sir never was able to have one
Q How much was there in that patch? A Couple of acres.
Q Always tend it with a hoe did you? A. Yes sir, what time he lived he tended it and when he died I worked out.
Q What towns in Kansas did you work in? A. Chetopa.
Q Is that all? A. Yes sir.
Q You had seven children born to you by Jordan Harper? A. Yes sir.
Q Who did you sell that place to? A. No one.
Q Just vacated it? A. Yes sir, couldn't make a living there and left it
Q Did you stay there until those seven children were born? A. Yes sir
Q Was Welch Station there then? A. No sir.
Q What was your nearest town? A. Chetopa.
Q What direction were you from Chetopa? A North I guess.
Q When you would go to Chetopa would you go south? A. No we would go north I guess.
Q Was you north of Chetopa or was you south of it? A. We had to go up north to go to Chetopa, we lived on Cabin creek.
Q How far was the M. K. & T. Railroad from you? A. Wasn't there when we were there, never saw one.
Q Never saw a railroad around there when you lived there? A Yes sir.
Q Well how far was it from you? A. 15 miles, or 17 miles.
Q But you never saw it? A No sir, the first one that I ever saw was at Vinita.
Q Did you ever go to Chetopa when you lived on Cabin? A Yes sir.
Q That road doesn't run through Chetopa? A Yes sir.
Q Didn't you see it up there? A No sir.
Q What did you and your husband do for a living there on that place? A Just what we could, he would go to the States and work in the harvest field and I staid at home and cought fish and made meal in a mortar and hominy and such things.

(By Smith)

Q When you went out of the Nation during the war, how far south did you go? A. I dont know.
Q Where did you go to? A. Went to Texas.

(By the Commission)

Q What was your father's name? A. Edmond Vann they said, I never seed him.
Q What was your mother's name? A. Mary Stover.

(Hastings)

Q Where is the first time you ever saw Mose Riley on Cabin creek? How many years ago? A. I dont know.
Q How old are you? A I dont know my age I dont know except what Mrs. Damon told me.

MOSE RILEY called and sworn as a witness for the applicant:
(By Smith)
Q What is your name? A. Mose Riley.
Q How old are you? A. 51.
Q What is your post office address? A. Chelsea.
Q Do you know this applicant Liddy Carter? A. Yes sir.
Q How long have you known her? A Ever since I was a small boy.
Q Where is she living now? A. Her place is on the other side of Cabin creek.
Q How far from Chelsea? A 35 or 40 miles.
Q In the Cherokee Nation? A. Yes sir.
Q Did you know her before the war or not? A. I seed her in time of the war.
Q Where did you see her then? A. I guess it was at Mrs. Stover's, I was a small fellow then, they taken me there and I knowed her mamma well and this was the girl that I got acquainted with there.
Q What was her mother's name? A. Mary.
Q When did you first see this applicant after the war? A. When they was coming from Fort Gibson,
Q Where did you see them when they were coming from Fort Gibson? A I was cutting corn for Col. Bell - - -
(By Hastings)
Q Col. L. B. Bell, commonly called Hooley Bell? A Yes sir Col. Bell.
(By Smith)
Q It was Hooley Bell was it? A. Yes sir.
Q When was this? A. Right after the war, notlong after the war.
Q You dont know how long after? A. No sir.
Q Have you known this woman since that time? A. Yes sir.
Q When did you see her the next time? A. I saw her on the old place known as the Larkins' place- - now I guess it is he Larkins' place, the place known as the Old Larkins' place, right close to the line.
Q Who owns it now? A. I dont know.
Q Well go on? A I think they settled there on that place.
Q Who do you mean by "they" ? A This child's mamma and her children.
Q How long was that after you saw them when you was cutting corn for Col. Bell's ? A Perhaps two years,somewhere along near two years.
Q On which side of the line was that? A. South side of the line.
Q When did you see her next after that? A. It was at the same place, their brother hired me to build a house for them on the north side of Cabin creek
Q Near what point on Cabin creek? A One and a quarter miles of Bill Tucker's.
Q How far from Chelsea? A, I dont know.
Q Was it in the Cherokee Nation? A. Yes sir.
Q When did you next see her after that? A. Seed her here after that at Vinita.
Q Have you seen her here a few times or often since you saw her at Vinita? A Several times.
Q Do you know if Liddy is a relation of Eliza Gaines or not? A. She is her sister.
(By Hastings)
Q Where did Mrs. Stover live when you first aw this applicant? A I dont know exactly where it was, it was way over in there (pointing) some place.
Q How long had the war been going on then? A. I dont know.
Q ~~Do you~~ Who do you mean when you said that you knew her mother Mary very well, you know that Mrs. Stover was named Mary and this woman Liddy's mother was named Mary? A I mean Mary Stover, and we went to Jim Allen Thompson's place, the Stovers and the Thompsons had married. Liddy's mother was a Mary Stover and there where was a Mary Stover that was a Cherokee and owned them.
Q How far did James Allen Thompson live from Mrs. Stover? A I dont know, I was riding on behind my mistress on a horse-and was a little

fellow, just big enough for her to have me put on behind her, and I was asleep most of the time as we was going along, and sometimes she had to tie me on to keep me from falling off and I dont know how we went or how far it was.
Q Well it was several miles wasn't it? A. I dont know.
Q Well it was long enough for you to go to sleep between places wasn.t it? A I went to sleep.
Q Do you know what sort of a house Mrs. Stover lived in? A I dont know what sort it was, I dont know if it was pine or what, I know it had them bright pieces running up and down the porch for I was climbing them and the old lady McNair or something like that come up and smaked my ears for it.
Q Was it a frame or log house? A I dont know anything about it except them things on the porch.
Q Were they posts? A. Yes sir.
Q Was that the time that you saw this woman here? A. Yes sir.
Q Was it in the timer or prairie? A There was some timber that we went through.
Q And you saw her mistress Mrs. Stover at the same time? A. Yes sir, that is what they called her.
Q She was there at the time? A. Yes sir, that was where we went that time.
Q And the first time that you ever saw her after the war was at Hooley Bell's place where they were cutting corn? A. Yes sir.
Q Did you have any talk with them then? A. Yes sir, I staid there right sort of a spell.
Q Did they say where they were from? A Fort Gibson.
Q Hooley was living there was he? A. I guess so.
Q They were cutting corn for him? A. They was cutting corn.
Q And he was living there, Hooley was? A. I went up there to the place to get my pony and he was there.
Q How many years after the war was that? A. Not long.
Q Do you know where this woman was married the first time? A No sir, she wasn't married at that time when I seed her that I know of, she had a boy with her or some kind of a child, I dont think she was married then.
Q What was its name? A. Will, I believe, I'm not sure.
Q Was Will old enough to talk then? A Might habe been, he never talked none to me though, I never fooled with him.
Q It was this woman's child? A Yes sir.
Q Was you well acquainted with her first husband? A. No sir.
Q Did you ever get acquainted with her husband? A. Am acquainted with the one she has now.
Q What is his name? A. Carter.
Q Is that the only husband of hers that you became acquainted with? A I think one died.
Q You dont know where she married Carter? A. No sir.
Q How long has she lived where she is living now? A. I dont know.
Q How long have you known her up there? A. I have knewed where her place is five or six years.
Q You saw her there with one child when you saw her at Bell's? A Yes sir.
Q You know that she had one child then? A. Yes sir.
Q You are positive of that? A. Yes sir.

ELIZA GAINES, called and sworn as a witness for the applicants.
(By Smith)
Q What is your name? A. Eliza Gaines.
Q Do you know this applicant, Liddy Carter? A I know she is my sister
Q Is she older or younger than you? A. Younger, she was the baby.
Q Who was your mother? A. Mary Stover.
Q Who was your father? A. Edmond Vann, brother to Jim Vann.

Q Was Liddy a slave? A. Yes sir she was born a slave child.
Q Who owned her? A. John Stover.
Q Was he an Indian? A No sir.
QWas his wife? A Yes sir.
Q Where was she when the war commenced? A. At the old place
Q Where was that, in the Cherokee Nation? A Yes sir, right where Mr. Hasting's mother is living now. Four miles from Mayesville.
Q Was this applicant taken out of the Cherokee Nation during the war? A Yes sir, went to Texas together.
Q What year did you come back? A. I dont know what year, I know my master brought us back.
Q Was this applicant with you? A. Yes sir.
Q Where did you first come back to? A. Fort Gibson.
Q In he Cherokee Nation? A. Yes sir, my master died in the Chickasaw Nation.
Q Who did you come the rest of the way with? A. I hired a man to bring us to Fort Gibson.
Q Who did he bring? A. Berry Thompson, and Mrs. Harris, and Liddy Carter and Jane Webb and my children that was born then.
Q Are these all of your family that he brought up? A Yes sir.
Q There was you and Jane Webb and Berry Thompson and Liddy Carter? A Yes sir, and Mrs. Harris.
Q Any more? A My mother and brother but they is dead.
Q Did your mother and brother and you four make up the family that came in that lot? A. Yes sir all come in the same lot.
Q When was it you got back to Fort Gibson? A. When the soldiers was there, in '66 they told me.
Q Are you the same Eliza Gaines that applied some time ago? A. Yes sir the same one.
Q What was your name before you married Gaines? A. Nash.
Q Was this sister of yours, Liddy Carter, was she or was she not, with you in that crowd when you come back to the Cherokee Nation, as described by you in your testimony in your own case? A She was with me and staid with me for some time after we got here.
Q How long did she stay with you after you got here? A Until she was a grown woman.
Q How long was that after you come? A I dont know, exactly how long.I can't read and dont keep no count of nothing like that.
(By W. W. Hastings)
Q How long did you stay in Fort Gibson? A. About a year.
Q What did you do there? A. I washed and ironed.
Q Who for? A. The soldiers.
Q Did you live in a house? A. No sir in a tent.
Q All thetime? A. All the time, we had a tent like a house.
Q Who kept the store there? A. I cant tell you, I knowed it was an Indian but I dont know his name.
Q There was a store there? A. One store that we traded at.
Q Then you come up by Hooley Bell's place did you? A. Yes sir.
Q And then you went to the Larkins' place? A Yes sir.
Q And this woman was with you all that time? A. Yes sir.
Q What is her oldest child's name? A. Will, he is dead.
Q Where was he born? A. In the Choctaw Nation.
Q How old is this woman? A. I dont know.
Q How old was she when the war come up? A. I dont think she was as old as Dora then.
Q What Dora? A. Her young mistress, I dont know if it was Dora or Martha.
Q Was she a grown woman when the war come up? A. No sir, these negro girls get grown now when they is 15 or 16 years old.
Q Was she 15 or 16 years old then? A No sir.
Q Where was her youngest child born? A. I dont know.
Q Do you know where she married first? A. No sir.
Q Do you know where any of her children were born? A. Only Will.

Q Is that all? A Yes sir.
Q Do you know where she married Tobe Middleton? A At Vinita I guess.
Q Do you know where she married Tobe Middleton? A At Vinita I guess.
Q Did she ever live with Jordan Harper? A. Yes sir, that was on Cabin creek.
Q In the same house with you? A. No sir.
Q How far from you? A. Not very far, as far as that house over yonder (pointing)
Q How long did she live there? A. Year or two.
Q Where did she go from there? A. Went to Chetopa and hired out and worked.
Q When did her husband Harper die? A. I dont know.
Q When did she marry Charles Carter? A. I dont know.
Q Where is she living now? A. On Possom creek I believe it is.
Q How long has she lived up there? A. She got a place up there after she drawed her money.
Q Where did she get her money, at which paying precinct? A. I dont know
Q How long did she live in Vinita? A. I dont know.
(By Smith)
Q Where is Possom creek, in the Cherokee Nation? A. Yes sir.

By Com'r Needles: Liddy Carter applies for herself; she is not found on the authenticated roll of 1880 or the census roll of 1896; she is identified on the Kern Clifton and Wallace roll; she avers that her father was Edmond Vann and her mother was Mary Stover, and that she was a slave of the Stovers before the war; she avers that she was married three times, first to Jordan Harper, then to Tobe Middleton and then to Charles Carter her present husband. The applicant's attorney pray that the testimony taken in the case of her sister, Eliza Gaines on Cherokee Freedman doubtful card #220 be made a part of the record in the case at bar and it is ordered that a copy of same be filed herewith. Now the said Liddy Carter will be listed for enrollment as a Cherokee Freedman on a doubtful card and she will be notified by mail of the final decision of the Commission.

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Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes herein.

(Signed) Chas. von Weise.

Subscribed and sworn to before me this the 26th of June, 1901 at Nowata, I. T.

(Signed) T. B. Needles

Commissioner.

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Q How old are you? A. I dont know exactly how old.
Q How, about how old? A. I got it you can see it? (60)
Q What is your post office address? A. Bluejacket.
Q In what district do you live? A. Cooweescoowee
Q Do you apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Have you ever applied to be enrolled as a freedman of any other Nation or tribe? A. No sir.
Q Haveyyou been recognized by the Cherokee auherities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A. I dont know.
Q Who do you want to enroll besides yourself? A. Myself.
Q How many children? A They are there (Referring to paper)
Q Children all grown? A. Yes sir.

The 1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.
The 1896 census roll of citizens of the Cherokee Nation examined and applicants name not found thereon.

Q Did you draw what is known as the Strip money? A. Yes sir.

The Kern Clifton roll of citizens of the Cherokee Nation examined and applicant's name found thereon page 161,#3968, Eliza Gaines, Cooweescoowee District.

By Mr. Smith, of the firm of Smith & Mellette, Attorneys for applicant.

Q Were youaa slave? A. Yes sir.
Q Who was your owner? A. John Stover.
Q Was he a Cherokee citizen? A. No sir,my Mistress was.
Q What was her name? A. Charlotte Stover.
Q Where were you during the war? A. With my Master.
Q Did you go out of the Nation? A. Yes sir.
Q When did you get back? A. '66.
Q Do you remember what time in '66? A I come back in the fall of '66 near Christmas.
Q Where did you come to, what part of the Cherokee Nation? A. I come to Gibson.
Q Where do you live now? A. I live at Timbered Hill now
Q Have you a place there? A. Yes sir.
Q Farm? A. Yes sir.
Q Are you on the Kern Clifton roll? A. I guess I am on it, you will have to look and see.

(By W. W. Hastings, Cherokee Representative)

Q Whom did you come back to the Cherokee Nation with? A I come back with John Stover.
Q He brought you back? A. Yes sir, brought us to the Chickasaw Nation
Q Did he die in the Chickasaw Nation? A Yes sir.
Q He didn't come back here after the war? A. No sir, he died over there but we come back.
Q After he died then you come on up to the Cherokee Nation? A. Yes sir, I hired a wagon and come on up to Gibson.
Q Now, how many come along in that crowd? A There was not nobody but me and my sister, we hired a man to bring us.
Q What was your sister's name? A Jane Webb, she was Jane Brown at that time.
Q You hired a wagon did you? A. Yes sir.
Q Do you remember the man's name you hired? A. Mr. Brown, he was her husband.
Q How long did you stay at Fort Gibson? A. We staid there about, we come in the fall before Christmas, staid there until I gotable to travel again.
Q About how long? A. I guess it was about nearly over six months, year, we staid there and drawed rations.
Q Whom did you stay with at Gibson? A. We was in a tent.
Q Just you two and her husband? A. Yes sir, and the children.

Q What children did you have at that time? A I had Julia and Georgia and John Henry and Lizzie.
Q They were all along with you? A. Yes sir.
Q Who did you work for at Fort Gibson? A. I washed for the soldiers.
Q And where did yougo from Fort Gibson? A. I staid there about a year and come up about Mr. Bell's.
Q Mr. Hooley Bell? A Yes sir.
Q Where was he living at that time? A. I can't tell you, but it was somewhares where the old Fort had been and there was coffins there and anyway I know it was where he lived, I cut corn for him.
Q For Hooley Bell? A. Yes sir.
Q How long did you stay with Hooley Bell? A. Staid there until along in the fall.
Q You staid there from the summer until the fall? A. Yes sir.
Q About six or eight months? A. Yes sir.
Q And the must have been the fall of 1887 when you staid up at Hooley Bell's? A I dont know.
Q Now, where did you go? A I went to Chetopa and staid there.
Q Chetopa, Kansas? A. Yes sir, right across the line.
Q You didn't go into the State of Kansas? A. No sir.
Q You only went up near Chetopa on the Cherokee side? A Yes sir, on what they call.
Q Now, whom did you work for up there? A We was working for ourselves, a man hired us to go out and work on hisfarm, it was a man named Larkin
Q Now, how long did you work for Larkins? A We staid there a long time.
Q A number of years? A. Yes sir, until we moved down here.
Q Until you moved where you live now? A. Yes sir.
Q After you left Hooley Bell's place you went up to Larkins place? A Yes sir.
Q Are any of Mr. Larkins folks alive now? A. Not as I know of.
Q He had a family did he? A. Yes sir, he had four in his family, his wife and two children.
Q Was Mr. Larkins a citizen of the Cherokee Nation? A I dont know, He hired us to work.
Q Have you ever lived in Kansas since the war? A. No sir.
Q You never went up there at all? A. No sir, just go up there and come back.
Q You come back from near Chetopa to where you live now? A. Yes sir; I dont live there now, I live on Timber Hill near Bluejacket.
Q I mean you come from the Larkins place down to near Bluejacket? A Yes sir.
Q What direction is that, is it on the Cocweescooweee side? A Yes sir
Q Towards the sunset from Bluejacket? A. Yes sir
Q Did your sister go with you all these round you were talking about? A She was with me pretty much at the time.
Q Did these children go with you? A. They was with me some and I had some hired out.
Q You staid about three or four years at the Larkins place? A Yes sir
Q Did you have any neighbors around there? A There was no neighbors but one family.
Q What was that family? A. John Shafer,
Q Did he live in the Cherokee Nation? A. Yes sir.
Q Now, about how far from Chetopa were you, about how many miles to the best of your knowledge? A I guess it was about three or four miles.
Q Down on the Cherokee side? A. Yes sir.
Q South of Chetopa? A. Yes sir.
Q Were you living there when the railroad come there? A. No sir, wasn't no railroad, living there long before the railroad was built.
Q You were living there when the railroad was built? A Yes,sir, there wasn't no houses when the railroad come through.
Q You were living at Larkins when the railroad came there? A Yes sir
Q Now, Mary, how far from the railroad track,the M.K.&.T.were you living? A I dont know,we could not hear the train.
Q On the south of the track? A That was on this side of the track over

in Cooweescoowee.
(By Mr. Smith)
Q Who are your children? A. John Henry.
Q John Henry what? A. John Henry Nash, Julia Nash, Lizzie, Georgia Ann, Malinda, Etta, Berry, the other three is dead.
Q How many? A. Three is dead.
Q How many are alive now that you name? (No response)
Q You don't mean that any of those whose names you give are dead? A. No sir.
Q Do they go by this name; are they still named Nash, or are they married? A. They are married.
Q What are the names of the girls? A Malinda Johnson and John Nash, he goes by his daddy's name, Georgia Jones, and Lizzie Martin and Carrie Harrison.
Q Are they here? A. There is Mary Mayberry.

CHARLEY CHAMBERS, called as a witness on the part of Applicant sworn and examined by Commissioner T. B. Needles, testified as follows.

Q What is your name? A. Charley Chambers.
Q How old are you Mr. Chambers? A. 76.
Q What is your post office address? A. Hudson.
(By Mr. Smith)
Q Do you know Eliza Nash or Eliza Gaines? A Yes sir.
Q How long have you known her? A. Well, I have known her somewheres about in '60
Q Where did you know her? A. When I first known her she was at, my first ~~[illegible]~~ knowing her, I seen her at Fort Gibson.
Q You are a Freedman? A. Yes sir.
Q Are you on the 1880 roll, or not? A. Yes sir.
Q Where were you during the war; did you go out of the Cherokee Nation A No sir; Yes sir; I went out of the Cherokee Nation, but I was in the Territory, the Choctaws.
Q The Choctaw Nation? A. Yes sir.
Q Do you remember when you come back to the Cherokee Nation? A. Yes sir.
Q When was it? A. I come back in '65 65, I come back in '65; this side of Fort Smith over there down in the bottom on this side of the river.
Q How long was it after you come back before you become acquainted with or see Eliza Nash, or Eliza Gaines?A Well I come back in, along, in the Summer and I come up from there and come up to Tahlequah where my old folks was living and it was that winter about the next, I mean the next year, the winter I was over to Fort Gibson and seen her there.
Q About what season of the year was it you got back? A. Along in the summer, Spring like.
Q Of 1865? A Yes sir.
Q And the following winter? A. No, it was the year we called there, that winter and the next winter, come in the same winter, that is right, the same winter.
Q Well, which was it, the following winter after you come back in the summer? A Yes sir.
Q Do you know her children, know what their names are all of them or not? A. No sir; I dont know; I never seen any of the children then, I didn't know anybody but her and she was up there, up there drawing Government rations then when I seen her.
(By W. W. Hastings)
Q Did you see her there then the one time, Mr. Chamberes? A. No sir, I seen her there as much as twice I know of; it was the first ~~was~~ time I saw her there it was.
Q That was in the fall after you come back in the spring or summer ? A Yes sir; after I come up from Fort Smith, I come up then to see my old folks that raised me and while I was there I went on there to Fort Gibson and seen her there.
Q You are positive you saw her? A Yes sir, I am positive I saw her there

Q Are you positive about the year you saw her? A. It is the same winter after I come there; you see I staid there all that summer down there to Fort ~~Gibson~~ Smith and along in the fall I come up here.
Q And that is the fall you saw her? A. Yes sir, that winter I seen her.
Q You know that? A. Yes sir, I know that to be fact.
Q You come here you say in the spring or summer of 1865? A Yes sir.
Q And say it was the next winter you saw her? A Yes sir, I staid that summer there at Fort Smith in the bottom, understand me right; I staid there that summer in the bottom and that winter I come up to see my old folks who raised me; well that fall I staid there all fall and that fall I went down to Gibson, riding about as usual and staid around there a little while and I seen her and I was always a pretty good hand to notice women.
Q And you noticed her among all that bunch? A Yes sir.
Q You remember seeing her? A. Yes sir.
Q Well when did you next see her? A. I seen her again a short time after that I saw her there in a store the next time I saw her.
Q Whose store? A. I cant call the man's name now; but anyhow it was the store George Sanders was working in; I guess you know don't you, dont you recall.
Q I was not there? A There at Fort Gibson.
Q When did you next see her? A. I never seen her from over there, I never seen her any more until I saw her up there where she is living now, at Timbered Hill.
Q How long was that after you saw her at Fort Gibson? A Four or five years.
Q You dont know where she had been in the mean time? A. No sir; but I dont think she had been anywhere but, I heard of her living up by William Tucker's
Q You never did see her up there? A. No sir.
Q Have you ever been arrested? A Yes sir.
Q What for? A. For several things.
Q How many times? A Twice, three times, one time for selling bows and the next time for selling cedar posts.
Q What Court? A. Cherokee; arrested one time by the United States Court
Q What for? A. For shooting at a man.
Q What was done with you? A. Never done anything with me.
Q Did they try you? A. Yes sir, never done anything.
Q What did they do with you in the Cherokee Court? A. Nohing, turned me aloose and let me go home.
Q Never was convicted? A. No sir.
Q You dont remember seeing anybody but this woman in 1866? A Oh, I seen lots others.
Q I mean of her family? A. If I did I didn't know em.

JAMES ALBERTY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. James Alberty.
Q What is your post office address? A. Choutbau.
Q How old are you; James? A. I am near 70 or older, I dont know.
Q Are you a citizen of the Cherokee Nation? A. Yes sir, I drawed money, votes.
Q Is your name on the roll of 1880? A No sir.

(By Mr. Smith)

Q Do you know Eliza Gaines? A. Yes sir.
Q Sometimes called Nash? A. I know her.
Q How long have you known her? A I dont know how long, I know her when she was with her old Master, I dont know how long that has been
Q Who was that? A. Mr. Stover.
Q Well, where were you during the war; did you go out of the Cherokee Nation? A Yes sir, south.
Q When did you return to the Cherokee Nation? A I returned in '66 before the Treaty was made.
Q Did you know where Eliza Nash was at that time? A (No response)

Q When did you see Eliza Nash? A. When I come back.
Q When was the first time you saw her? A. At Gibson.
Q When? A '66
Q Can you state at what time it was? A. In the fall.
Q Did you know any of her family, any of her children? A No sir I could not tell anything about them.
Q Did you know her sister? A. U Yes sir.
Q What was her sister's name? A. Lydia was one and Jabe was was one and if I dont mistake Mary was one, that I recollect.
Q Do you remember seeing any of them? A. Yes sir.
Q Who did you see? A. Lydia that I noticed.
Q That you remember? A. Yes sir.
Q Do you know of your own personal knowledge whether they, or any of them went out of the Cherokee Nation, and if so, when they came back? A No sir I dont know.
(By W. W. Hastings)
Q Whom did you belong to when the war broke out? A. John Ablerty.
Q John Alberty sold you out of here before the war? A. No sir, he didn't he sold Dave though.
Q You swear that you belonged to him at the time of the war? A. Yes sir, I never belonged to anyone else that I know of.
Q He never sold you out? A. No sir.
Q Where were you living when the war came up? A. Right at Pryor Creek right at the toll bridge.
Q Where was this woman living when the war came up? A. At Stover's.
Q How far was that from where you were living? A. I trained horses right there by Wilson's
Q Who did you train horses for? A Trained horses for Jim Kell.
Q And you knew Eliza before the war? A. Yes sir.
Q What were you doing at Fort Gibson when you saw her there? A Nothing just riding about getting drunk; that is all I did in them days; I had money and didn't work.
Q Was Eliza living at Fort Gibson when you saw her? A. She was there washing, I dont know where she was living.
Q How do you happen to remember seeing her? A. I stopped there where she was and talked with her.
Q Did you see her there just once? A. The next time I saw her, ask me.
Q Where did you see her next? A. On Cabin creek.
Q Where was that? A. I dont know which way it is from here.
Q How far from Vinita? A. Good ways.
Q Near whose place? A. Bill Tucker's
Q On Cabin creek? A. Yes sir.
Q When was that you saw her there? A I dont know, it may have been a year or maybe more.
Q She was living up there then? A. Yes sir, in the house not far from Mr. Tucker's
Q Where did you see her the next time? A. Where she lives now.
Q About how long was that after that? A. I dont know.
Q She moved from where she lived on Cabin creek to where she lives now? A. Yes sir.
Q West of Bluejacket? A. Yes sir, west of Bluejacket.
Q Jim, were you ever tried for anything by the Courts? A. No sir
Q Never was arrested? A. No sir, not by Courts, I was not
Q By Marshals? A No sir, I used to be a Marshal myself, I never was arrested for any crime or any kind, never was.

Com'r Needles- Eliza Gaines applies for he enrollment of herseld as a Cherokee freedman. Her name is not found upon the authenticated roll of 1880 or any rolls now in the possession of this Commission except the Kern Clifton roll, and her name is found thereon according to the page and number as indicated in the testimony. Her name will no be placed upon a doubtful card for

the further consideration by the Commission. The final decision of the Commission will be made known to the applicant at her post office address by due course of mail. If at any time she desires to introduce any additional testimony the same will be received.

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J. O. Rosson , being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes , he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson

Subscribed and sworn to before me this 10th day of May, 1901.

(Signed) C. R. Breckinridge
Commissioner.

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To be filed with the case of Allie McElroy C.F.D.# 717

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9th 1901.

In the matter of the application of Berry Thompson for the enrollment of himself and three children as Cherokee Freedmen; said Thompson being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Berry Thompson.
Q How old are you, Mr. Thompson? A About 46.
Q What is your post office address? A. Bluejacket.
Q What district do you live in? A. Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you desire to enroll besides yourself? A I got three children
Q What are the names of your chi ldren? A Oldest one is named Elmer Thompson.
Q How old is Elmer? A. 14.
Q The next one? A. Leo.
Q How old is Leo? A. 13.
Q The next one? A Morrison.
Q How old is Morrison? A. Ten.
Q Is that all? A. Yes sir.
Q What is your wife's name? A. Bell Thompson.
Q Is she a citizen? A. No sir.
Q Is she the mother of these children? A. Yes sir.
Q What was her father's name? A. Holston.
Q Did you ever apply to be enrolled by any other Nation or tribe?
A No sir.
Q Have you ever been recognized by the Cherokee authorities as a Freedman? (No response)
Q Kinda half way? A Yes sir, just like the rest of them.
Q Is your name on any of the rolls of the Cherokee Nation? A. Yes sir
Q Is your name on the roll of 1880? A No sir.
Q Is it on the Kern Clifton roll? A Yes sir.
Q Were you married to Bell Thompson? A. Yes sir.
Q Have you any certificate of marriage? A. No sir.
Q Have you any proof of marriage? A. Yes sir.
Q Whom can you prove your marriage by? A. Her sisters.
Q Are they here? A. Yes sir.

JOHN NASH being sworn and examined by Commissioner T. N. Needles testified as follows:
Q What is your name? A. John Nash.
Q What is your age? A. 35.
QWhat is your post office address? A. Bluejacket.
Q Do you know Berry Thompson? A. Yes sir.
Q Do you know his wife, Bell? A Yes sir.
Q Do you know whether they were married or not? A. Yes sir they was married.
Q How do you know? A. Old man Bluejacket married them.
Q Did you see them married? A Yes sir.
Q Was Bluejacket a minister? A Yes sir, Uncle Charley Bluejacket.
Q Have they been living together as man and wife ever since their marriage? A. Yes sir.
Q Is Bell Thompson living now, his wife? A. Yes sir
Q Did they have any children? A. Yes three.
Q Born to them while they were living together as man and wife? A Yes sir.
Q What is the names of them do you recollect? A. Elmer.
Q Leo? A Lee and Morris.

[illegible] THOMPSON, the applicant, re-called, testified as follows:
[illegible] by Mr. Smith, of the Firm of Smith & Mellette,
[illegible] Applicants:

Q W[illegible] you were, Berry? A. 40.
Q Were [illegible] A. Yes sir.
Q W[illegible] A. John Stover.
Q A[illegible] Eliza Nash, or Eliza Gaines? A I am her brother
Q Di[illegible] the Nation, or were you taken out of the Cherokee Nation [illegible] war? A. Yes sir.
Q By [illegible] taken out? A. My Master.
Q Wh[illegible] A I come back when she did, '66
Q Wh[illegible] sister, Eliza.
Q Wh[illegible] Gaines, returned? A. Yes sir.
Q Ha[illegible] Yes sir.
Q Wh[illegible] is three miles west of Bluejacket.
Q How [illegible] had it? A. About 15 years.
Q You [illegible] on the Kern-clifton Roll? A Yes sir.
(By W. [illegible] Hastings, Cherokee Representative)
Q Where [illegible] married? A. I was married about three miles and a half [illegible] Bluejacket at the lower end of Timbered Hill.
Q You had heard the statement of your sister, Eliza and sister, Jane; did you go the rounds with them? A. Yes sir.
Q Did you [illegible] live in Kansas? A. I worked up there.
Q Where? A. I worked at Chetopa some and Columbus.
Q How far is Columbus from Chetopa? A. About twenty miles.
Q How long did you work up there? A. I worked there off and on, cooked; I was up there three months I guess.
Q You were married in the Nation? A Yes sir.
Q Did you make your home with your sister before your marriage? A. I worked out a good deal of the time, worked at Vinita, some, I lived with my mother.
Q What was your mother's name? A. May Stover.
Q Did she come back from Texas with you? A. Yes sir.
Q With your two sisters too? A. Yes sir.
Q Your mother was along too? A. Yes sir.
Q Is your mother alive? A. No sir.
Q Where did she die? A. She died up at Timbered Hill.
Q About how long ago? A. About 13 years.
Q You made your home with her until she died? A. Yes sir.
(By Smith)
Q Where was it your mother died? A. She died at Timbered Hill in the Cherokee Nation.
Q What was your mother's name? A. Mary Stover.
Q Do you know whether she was ever on the 1880 roll or not? A. I dont know for sure whether she was or not.
Q How long has it been since she died? A. About 13 years.

The 1880 authenticated roll of Cherokee freedmen examined and applicant's name not found thereon.

The Kern-Clifton roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:

page 1[illegible] #4[illegible] Berry Thompson, Cooweescoowee district.
Page 1[illegible] #4[illegible] Elmer Thompson, Cooweescoowee district.
page 1[illegible] #4[illegible] Lee Thompson, Cooweescoowee district.
page 1[illegible] #4[illegible] Morrison Thompson, Cooweescoowee district.

Com'r Needles.- Berry Thompson applies for the enrollment of himself and three children, to-wit: Elmer, Leo and Morrison. His name is not found upon the authenticated roll of 1880, nor the census roll of 1896. His name is found upon the Kern-Clifton pay roll. The names of his three children are also found upon said roll. He is duly identified according to the page and number of said roll and makes satisfactory proof as to residence. By agreement of the counsels

In this case, the record in the case of Eliza Gaines, D.#220, is referred and made a part of the record in this case. The names of Berry Thompson and his three children, as enumerated herein, will now be listed upon a doubtful card for the further consideration of the Commission. When the decision of the Commission is arrived at he will be notified by mail. If he desires at any time to introduce any further evidence in his case, the same will be received.

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interested, and because of the further fact that it is in-
competent and immaterial, and there are living witnesses by
whom the same facts can be established--Mrs. Emerson's sis-
ter and others are now living, who know the same facts that
Mr. Emerson knew and one of whom is now in the town of Winita
for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit
will be filed and consid red for what it is worth.

Mr. Wallstein: Now, the attorney for the [illegible]
the affidavit of Nancy Emerson, which is certified to as
correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the
cord in the following Freedman cases. D.#221, D.#223,
D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229,
D.#230, #D.307, D.#232, D.#232, D.#231, D.#232, D.#716, and
also in the case of Nina Emerson, D.#220.

I, C. Rosson, being first duly sworn, states that as stenog-
rapher to the Commission to the Five Civilized Tribes he correctly
recorded the testimony and proceedings in this case, and that the
foregoing is a true and complete transcript of his stenographic
notes thereof.

File with case of Allie McElroy, et al., C.F.-D.#717.

Supl.C.F.-D.#220.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 12th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZA GAINES as a Cherokee Freedman, introducedon part of the Cherokee Nation:

APPEARANCES:
Mr. Mellette, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

JOHNATHAN GORE bei ng duly sworn, testified as follows on b half of Cherokee Nation:

MR. DAVENPORT: What is your name? A Johnathan Gore.
Q Where do you live? A I live near Bluejacket, in the Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A I have made that my home since '78; I have lived in the Nation longer than that, but that has been my home since '78
Q When you located at Bluejacket or near where Bluejacket is now, were you over that section of country very much? A Yes, sir, I was around there quite often.
Q Are you acquainted with Eliza Gaines? A Yes, sir, I know Mrs. Gaines and her people.
Q How long have you been acquainted with Eliza Gaines? A Well, I don't know, I can't recollect the first time I ever met her, but it was along in '85 or 6, I ain't positive as to dates.
Q Do you know what they call Timbered Hill out there northwest from where Bluejacket is? A Yes, sir.
Q Do you know where she livesnow? A I know where the old man lives, I suppose she lives with him, I never was right in the house, I have been right close to it.
Q Well, that section of country, were you through that section of country when you located at Bluejacket up to '81 or '2? A Yes, sir, I live near there and I was through the hill quite often, I had stock up there once.
Q When did these people settled up there to the best of your knowledge? A I can't tell you the exact time they settled there, it must have been '82 or '83; I never saw these people there in '79, '80 or '81, they might have come there in '82.
Q Well, were you over the country where they located there, where their ~~xxxxx~~ improvements are? A Yes, sir.
Q Could they have had a place and you not known it? A There was no place where Mrs. Gaines lives now; that is none except the Cris Young place and he built his house in '81, and I assisted him in building it and was familiar with nearly everybody that lives on Timbered Hill at that time and there were no colored people living there.

MR. MELLETTE: When did you get acquainted with Eliza Gaines? A Well, sir, I can't state as to the time I got acquaintedwith her; I have seen her in town and the people said that was Mrs. Gaines, I can't give the exact date.
Q Now, you don't know whetheryou got acquainted with them when they first came up there about Bluejacket or not, do you? A I could not state positive when they came there at the exact time, I know there was none living there at the time I was putting, assisted Cris Young built his house and for quite a while afterwards.
Q You don't know anything about them being at Fort Gibson right after the war? A Nothing in the world about it.
Q And about them living down about Holley Bell's place? A No, nothing in the world about it.

Q And living up near Chetopa at the Larkins place? A No, nothing about it.

GEORGE WALKER, being duly sworn testified as follows, on behalf of Cherokee Nation:

MR. DAVENPORT: What is your name? A George Walker.
Q Where do you live, Mr. Walker? A Live on Cabin Creek.
Q What is your post office? A Henson.
Q Cherokee Nation? A Yes, sir.
Q How old are you? A I am 71.
Q How long have you lived in the Cherokee Nation, Mr. Walker?
A Well, I guess I have lived there all the time.
Q Well, how long have you livedup in the neighborhood where you now live, up in that section of country? A Well, I moved up there towards Chetopa there in the fall of '66.
Q Been living in that locality since that time? A Yes, sir.
Q Do you know a man by the name of Larkins who at one time lived up near Chetopa, Kansas? A Yes, sir.
Q Where was he living when you first knew him, Mr. Walker? A Well, I don't recollect exactly but I think I was living where I am living now/
Q Well, where was he living with reference to where you were living, Larkins? A He built him a house close to Chetopa there.
Q In the Cherokee Nation or State? A In the State.
Q Well, after you knew him living there, did he live on that place?
A I could not tell you.
Q Well, did he afterwards live in the Cherokee Nation? A Well, I think he lived on Russell Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Now, when was that he moved on Russell creek with reference to the time the railroad came through that country? A I can't recollect.
Q Do you know what the place he lived on is known by now, what place? A I believe Holderman owns it now.
Q Has it ever been known by any other name besides Larkins left it, besides Larkins and Holderman? A No, sir.
Q How far from the Boudinot ranch place? A About three miles.
Q And he lived there after the railroad came through? A Yes, sir.

MR. MELLETTE: Now, Mr. Walker, you say that Larkins built a house in or close to Chetopa? A Yes, sir.
Q How far across the line was it? A It is right in the edge of town.
Q Then, there was his place in the Cherokee Nation? A I am a little bit too fast, I think a man by the name of Reed first built it and Larkin got it away from him.
Q How far is Chetopa from the Cherokee line? A It is about two miles and a half.
Q Wherewas Larkins' place in the Cherokee Nation? A It was up Russell Creek about something near three miles.
Q Three miles from where he livednear Chetopa? A It is about four I guess.
Q He owned that place there all the time, Larkins place on Russell Creek? A No, he didn't stay there powerfully long.
Q Well, didn't he own the place I saw? A I don't think he owned it, it was down in somebody else' name.
Q What? A He didn't own it.
Q He was a noncitizen? A Yes, sir.
Q How far did you live from Larkins' place? A About seven or eight miles, seven miles I guess.
Q Didn't he cultivate that place all the time he lived up there near Chetopa? A Yes, he cultivated it or had it done.

Q That is before he moved down on it? A I don't know about that, I can't recollect.
Q Russell Creek is right close to Chetopa, isn't it? A About three miles and a half.
Q Now, the Holderman place you speak of as being the old place Larkins moved to, that is in the Cherokee Nation, isn't it? A Yes, sir.

J. R. HURST, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A J. R. Hurst.
Q Where do you live, Mr. Hurst? A I live down at Claremore.
Q How old are you? A I am 48 years old.
Q Where were you raised? A I was raised, I was born up here at Chetopa Kansas, and principally raised right around there.
Q Well, you have been residing in the Territory pratcically and lived here the greater portion of your life? A Yes, sir that was in the CherokeeNation then.
Q Where were you living when the war closed, Mr. Hurst, or near what place A I was living, let's see, in '66 we lived on Neosho river right at the mouth of Russell creek.
Q Well, after the war did you become acquainted with a man by the name of Larkins? A Yes, sir.
Q How long did you know him, from the time shortly after the war, until the time of his death? A Why I knew him; I think the first tije I ever met Mr. Larkins it was in '68.
Q Well, he was a United States citizen; I mean by that was he a Cherokee citizen or United States citizen? A He was a United States citizen.
Q Where was he when you met him, Mr. Hurst? A He was in Chetopa, Kansas.
Q After that time did you have any businesstransactions with Mr. Larkins? A I hired for him and worked two years.
Q Where did you work? A I worked right on the head of Elk Creek.
Q In the Cherokee Nation or where? A Cherokee Nation.
Q Whose place was it? A I think Boudinot claimed it;first it started in my name and afterwards I think Boudinot got it in his name.
Q Now, what year was that place started after you got acqauinted with Larkins in '68? A Yes, sir.
Q How long did you stay with Larkins on the place?
A I stayed there about two years.
Q Where did you go when you left there? A I went to Texas.
Q Do you remember about what year you went to Texas? A It was about '70.
Q I will ask you whether or not after you left Mr. Larkins place, which had been run in your name part of the time, to go to Texas, was any colored people working for Larkins on that place?
A Not that I know of, I worked on the place all the time; I had it in my possession and tended cattle, had 640 head of cattle.
Q When, if you know, did any colored people come around that ranch there, or if any come, before you went to Texas?
A There wasn't any come at all before I went to Texas.
Q And you went in 1870? A Yes, sir.
Q Do you know who that place belongs to now or have you been up there in a good many years? A No, sir.

MR. MELLETTE: I believe you said, Mr. Hurst, it was the old Boudinot place? A I don't know, I think Boudinot owns it, afterwards.
Q Any land in cultivation on it? A Yes, sir, afterwards.
Q I am not talking about afterwards, I mean while you were there?
A Oh, yes, we broke out about 160 acres while I was there.
Q Well, you stayed there just about a year? A About two years.
Q Were you confined closely about your work? A All the time, right there about the place, stayed right there.

Q How far is that from the Holderman place? A It must be about mile and a half or two miles, I don't know but what the Holderman place joins it now.
Q Did you keep track of everybody that was there in that country?
A Why, at that time I did.
Q How far did your range extend, how far did you know the people?
A Well, my range extendedfrom Neosho river over to the head of Cabin creek.
Q You watched everybody that came in? A I knowed everybody, nearly everybody.
Q Have you ever been convicted of any crime?
Mr. Davenport: I object to that.
Commission: The objection will be noted, and answer the question.
Q Were you convicted? A Yes, sir.
Q Were you sent to the penitentiary? A Yes, sir.
Q Where from? A I was sent from Oswego, Kansas.
Q How long ago? A Let's see, it was in '74.
Q What charge? A Grand Larceny.
Q How long did you serve? A Five years
Mr. Mellette: I ask that his testimony be stricken out?
Commission: The objection will be noted, and the testimony will be considered for what it is worth.
MR. DAVENPORT: Did you serve your time? A Yes, sir.
Q You were in charge of the ranch for Mr. Larkins? A Yes, sir.

GRANDVILLE CRAIG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A Granville Craig.
Q Where do you live, Mr. Cragi? A Big Cabin.
Q What is your post office? A Bluejacket.
Q How old are you? A 50.
Q How long have you lived in the neighborhood of Bluejacket?
A Since '75.
Q How far do you live from Timbered Hill out west of Bluejacket?
A About a mile.
Q How long have you lived in that section? A All the time.
Q When you came down in that country in 1873 who was living in that country? A Nobody.
Q Do you know Eliza Gaines? A Yes, sir.
Q How long have you known her? A Since '82.
Q Wher ewasshe when you first got acquainted with her? A Right there where she lives now.
Q Did they have improvements when you got acquainted with them, and what was the circumstance of your seeing them? A They was building a cabin there.
Q How far is that from where you live? A About three miles.
Q You had been living up in that country from '72 or '3 up until now? A Yes, sir.
Q What had you been doing there? A Farming and live stock.
Q Had they lived in that neighborhood from the time you went in there until you saw them there building that cabin in 1882?
A No, sir.
Q You don't know where they came from? A No, sir.
Q Did you ever know a man by the name of Larkins that lived up there by Chetopa? A Yes, sir.
Q Where was he living when you got acquainted with him?
A In Chetopa, right at the edge of Chetopa.
Q Do you know where he had that ranch down there on Russell creek?
A I could not say what time he run the ranch there.
Q How far is that from this Timbered Hill where you live?
A That is some 12 or 14 miles.

Q Do you know whether he was handling that ranch after the M. K. & T. railroad came through or before A I think he was handling it at the time the railroad came through and some time afterwards.
Q You don't remember when he began? A No, sir.
MR. MELLETTE: Well, Mr. Craig, you spoke of knowing Eliza Gaines living at the place she is living now? A Yes, sir.
Q She located there in '82? A Yes, sir.
Q And lived there continuously since that time? A Yes, sir.
Q That is in the Cherokee Nation? A Yes, sir.
Q You don't know where she lived before that? A No, sir.
MR. DAVENPORT: Do you know any of her family, to show it was the same Eliza Gaines; do you know any of their children?
A Yes, sir, I know some of them, I know John Nash and Ed and used to know two or three girls that worked around there over the country

C. C. YOUNG, being duly sworn, testified as follows, on part of Cherokee Nation:
MR. DAVENPORT: What is your name? A C. C. Young.
Q Where do you live, Mr. Young? A Two miles west of Bluejacket.
Q How old are you? A 50 years old.
Q How long have you lived in that neighborhood, Mr. Young? A Since '81.
Q How far do you live from what is known as Timbered Hill northwest of Bluejacket, or west of Bluejacket? A I live about a quarter of a mile northeast if the main timbered Hill.
~~there~~ How long have you lived there at that place?
A Settled there in '81.
Q When you built there were there any colored people living near where you built? A Yes, sir.
Q Do you know Eliza Gaines? A Yes, sir.
Q Do you know any of her family? A Yes, sir.
Q What were their names? A I know John, Eliza, Malinda.
Q What does John go by? A Name of John Nash.
Q Now, when did they come into that country and establish any improvements? A The first I knoew of them they come there in '82; I seen them go over there in the Spring of '82 in an ox team and in the fall of '82 they put up a small cabin.
Q In the fall you say they come from what direction were they coming? A They was coming a little southeast.
Q And they came back in the fall and located that year? A Yes, sir.
Q How far did they locate from where you had your place, Mr. Young?
A About a mile west.
Q They have been living there since that time? A Yes, sir.
MR. MELLETTE: You don't know where they lived before that?
A Well, some of them said they lived over in the Jenkins settlement.
Q Where is that? A That is west of Timbered Hill.
Q That is in the Cherokee Nation is it? A Yes, sir.

J. W. CLARK, being duly sworn, testified as follows on behalf of Cherokee Nation:
MR. DAVENPORT: What is your name? A J. W. Clark.
Q Where do you live, Mr. Clark? A I live in the Territory here, you may call my home here in Vinita.
Q Your wife stays here doesn't she? A Yes, sir.
Q How old are you? A I am 58 years old.
Q Were you living in the Cherokee Nation at the close of the war, Judge? A Yes, sir, lived here all my life.
Q What place were you living? A When the war closed?
Q Yes. A I was soldier at Fort Gibson, mustered out there last May, '65.
Q Well, after you were mustered out where did you go? A I lived on Grand river in the vicinity of where I am living now.

Q Well, did you afterwards have anything to do in latter years as what is known as the Hooley Bell place? A Hooley Bell place now, but wasn't then; I lived about seven or eight miles then, it was known as the Joe Martin place then, that is the Hooley Bell place
Q Well, were you on that place or had anything to do with it the year after the war? A Yes, sir, I had a bunch of cattle there from August to september.
Q What year? A '66.
Q Was any land in cultivation? A No, sir, the rails had all been burned by the soldiers and people passing and before the house was built there, there wasn(t nothing there but a stockade built there during the war, there was a right smart of trouble around there and built a Fort there.
Q Was there any cultivated land there in '67? A There was not any, Captain Bell movedback on the place in the fall of '67.

L. B. BELL, being duly sworn, testified as follows on part of Cherokee Nation:

MR. DAVENPORT:

Witness: L. B. Bell; 62; Vinita.

Q Where were you living at the close of the war, Mr. Bell?
A My family was in Russ County, Texas, I reckon I was living there.
Q When did you come back to the Cherokee Nation? A I come back here in 1867.
Q Well, when did you move to the place which is known as the Joe Martin place, just after the war; what is now known as Hooley Bell place? A Well, I moved up to that Joe Martin place at the crossing of the Military road on Cabin Creek, in Tahlequah district; I think I moved into the house in November 1867, I built the house there.
Q That the place they had a kind of a Fort there at the time of the war? A Yes, sir, there was a stockade there.
Q Had you any improvements made on that place in 1867? A No, I will tell you, I moved here in 1867 and made a crop about eight or ten miles down below that place on the same side of Grand river, and on Grand river, and I built my house there, or commencedit in September or October and finished it in November and moved in it in November; there was no house there, there was no field there, the old field, the plowed ground that had been before that, but there was no fence around it.
Q Do you know Eliza Gaines? A No, sir.
Q Do you know whether or not she and her family cut any corn for you since the war? A Well, along about 1869 is when I raised a crop there, I guess she come, there was some negros there that belonged to old John Stober, stopped and cut the corn.
Q Do you know from what direction they came when they came up there; did you have any conversation as to where they came from?
A No, sir, I wasn't at home and my wife hired them to do the corn cutting and I got there about the time they got through; that is my understanding is they was right up from Fort Gibson, moving home, but I don't have any distinct recollection of having had any conversation with them directily about where they had come from, or as to whether they had just come into the country or not.
Q It was the first corn crop you had cut on the place? A Well, I told you I didn't have any field there; in 1867 I made a little patch, in '68 probably three or four acres and didn't have anything like a field until '69, it was in '68, is my recollection when they cut that corn; that is when I had the corn cut, and I understood it was these Stover negroes that done the cutting.

MR. MELLETTE: Now, Col. Bell, Eliza Gaines belonged to John Stover, a Cherokee, at the beginning of the war, didn't she?
A I said a while ago I didn't know Eliza Gaines. I lived in the neighborhood and John Stover he had a lot of slaves and I understood from them that they was John Stover's slaves and I so took it, and believe it yet.

Q Well, now, when you see Eliza Gaines after the war? A I don't know that I ever saw Eliza Gaines after the war.
Q Well, now, Col. Bell, you made an application for horbefore the Wallace Court? A I guess I did.
Q When John W. Wallace was making a roll of Cherokee Freedmen and you made an affidavit-

Mr. Davenport: I object to it unless he is going to introduce the affidavit.

Mr. Mellette: I am going to introduce the affidavit.

Q When did you say you saw them? A In '68 I don't remember that I had any corn before that.
Q I will ask you if you didn't make this affidavit before John W. Wallace, U. S. Commissioner, who was makeing a roll of the Freedmen? Now I will read you your affidavit: "In the matter of the claim of Eliza Gaines: L. B. Bell, being sworn, states that to the best of his recollection she was a slave and belonged to one John Stover, who l ived in ~~XXXXX~~ Delaware District for many years near (two miles) of where he lived in the Cherokee, and that he has had said Eliza Gaines in his employ in about the year 1867 or 1868. I am a citizen of the Cherokee Nation have been such all my life. (Signed) L. B. Bell.

Note: L. B. Bell is a member of the Cherokee National Council/

Subscribed and sworn to before me this September 11th, 1889.

John W. Wallace, Commissi oner."

A The only employment I recollect of giving her, that is the woman who claims to be that woman was to cut this corn.
Q Now, Col. Bell, this is a certified copy of your affidavit from the Secretary of the Interior and wasn't your recollection better then of the matter than it is now? A I don't know. Well, my recollection is no better then than it is now about the crop raising to a certainty, as I said a while ago it could not have been earlier than 1868 I cut the corn and I never lived on the place until 1868.
Q You stated here in this affidavit it was about '67 or '68, you don't put it as early as '67 now? A It could not have been '67, I don't have any recollection of employing her, if she is the woman I employed, in any other capacity except cutting that corn, and I don't think they stayed there only a few days.
Q Did you know Nancy Dameron, she was a witness for Eliza Gaines before Mr. Wallace at the same time you were? A Yes, sir.
Q was she a Cherokee Indian? A Yes, sir, she was John Stover's daughter.
Q Is she dead or alive? A She is dead I think she resided in this town here.
Q I have here a statement of Eliza Gaines made before John W. Wallace? U. S. Commissioner, on the 11th day of September, 1889, stating that she was a slave of John Stover, a Cherokee Indian, at the begin ing of the war, that she left the Cherokee Nation during the war, and that she returned to the Cherokee Nation in 1866; also giving the names of her children, I want to introduce a certified copy from the Secretary of the Interior.

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the statement of Eliza Gaines before the Wallace Court for the reason that it is incompetent and immaterial; she, Eliza Gaines, being alive and having testified in her original application in this case.

Mr. Mellette: I ask now to introduce the affidavit of Nancy Dameron, who is dead, which affidavit is as follows:

Mr. Davenport: The representatives of the Cherokee Nation object to the introduction of the affidavit for the reason that it is an ex parte statement of the witness and not a proceeding in Court taken after due notice to all parties

interested, and because of the further fact that it is incompetent and immaterial, and there are living witnesses by whom the same facts can be established--Mrs. Dameron's sister and others are now living, who know the same facts that Mr. Dameron knew and one of whom is now in the town of Vinita for the purpose of giving evidence in cases to-day.

Commission: The objection will be noted, and affidavit will be filed and considered for what it is worth.

Mr. Mellette: Now, the Attorney for the Applicant files the affidavit of Nancy Dameron, which is certified to as correct by the Commissioner of Indian Affairs.

Commission: This testimony will be made part of the record in the following Freedmen cases. D.#221, D.#221, D.#222, D.#223, D.#224, D.#225, D.#226, D.#227, D.#228, D.#229, D.#230, #D.307, D.#247, D.#322, D.#231, D.#232, D.#716, and also in the case of Eliza Gaines, D.#220.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 19th, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application of Eliza Gaines et al., for enrollment as Cherokee Freedmen, consolidating the applications of

Eliza Gaines	Cherokee Freedmen D-220
Jane Webb	Cherokee Freedmen D-221
Mary Fabry et al	Cherokee Freedmen D 222
Berry Thompson et al	Cherokee Freedmen D 223
Julia Nash	Cherokee Freedmen D 224
Georgia Jones et al	Cherokee Freedmen D 225
John H. Nash et al	Cherokee Freedmen D 226
Malinda Johnson et al	Cherokee Freedmen D 227
Eliza Grooms et al	Cherokee Freedmen D 228
Berry Nash	Cherokee Freedmen D 229
Edward Nash	Cherokee Freedmen D 230
Carrie Harris et al	Cherokee Freedmen D 231
Ella Humes	Cherokee Freedmen D 232
Aaron Martin	Cherokee Freedmen D 233
Michael Martin	Cherokee Freedmen D 236
George Martin et al	Cherokee Freedmen D 237
Joshua Martin	Cherokee Freedmen D 238
Edward Brown et al	Cherokee Freedmen D 239
Israel Martin et al	Cherokee Freedmen D 307
Nellie Brown et al	Cherokee Freedmen D 311
Harriett Tucker et al	Cherokee Freedmen D 397
Lydia Carter	Cherokee Freedmen D 716
Allie McElroy et al	Cherokee Freedmen D 717
Robert Harper	Cherokee Freedmen D 718
Jordan Harper	Cherokee Freedmen D 721

D E C I S I O N.

The record herein shows that applications were made to this Commission for enrollment, as Cherokee Freedmen, by Eliza Gaines, for herself; by Jane Webb for herself; by Eliza Gaines for her daughter, Mary Fabry; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Frank Fabry; by Berry Thompson, for himself and minor children, Elmer, Lee and Morrison Thompson; by Julia Nash, for herself; by Georgia Jones, for herself and minor children, John H., Allen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones; by John H. Nash, for himself and minor children, Allie, Jesse H., Olli and Lucy Nash; by Malinda Johnson, for herself and minor children, Lottie, Lizzie, Nelle, Eva, Annie, Peter McKinley, Reuben and Ben Johnson; that, subsequent to the date of the original application, birth affidavits, which are made a part of the record herein, for

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filed with the Commission showing the birth of George and Julia Johnson; by Ellen Crouch for herself and minor children, Martha, Dora, Peter W., Lorretha and Innis Crouch; by Henry Mach for himself; by Howard Mach for himself; by Currie Harris, for herself; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Delilah Harris; by Ella Hunter, for herself; by Aaron Martin, for himself and others (said other parties being differently classified and not embraced in this decision); by Michael Martin, for himself; by George Martin, for himself, his wife, Alice, and minor children, Martha, Clifton, Ethel and June Martin; by Joshua Martin, for himself; by Edward Brown, for himself and minor children, Henry and Stella Brown, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Laura Brown; by Isreal Martin, for himself, his wife, Lizzie, and minor children, Maggie, Jesse, Howard and Hettie Martin; by Nellie Brown for herself and minor children, Tom, Moses, Jennie, William and Michael Brown; by Samuel Tucker for herself and minor children, Glen Martin, Lena Brassfield, Henrietta Dean, George Tucker and Hope Tucker; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Sarah A. Tucker; by Lydia Carter for herself; by Allie Holmes, for herself and minor child, Etta Taylor, by Robert Harper, for himself; and by Jordan Harper, for himself.

The evidence shows that Allie Grimes, June Webb, Henry Thompson, Lydia Carter, Aaron Martin, George Martin, Isreal Martin, Julia Martin and Currie Harris are the principal applicants herein; and that all the other applicants in these several cases have been born since 1880 and, with the exception of Allie Hunter and Alice Martin, are descendants of some of said principal applicants and claim right to enrollment through them; that all of said principal applicants were slaves of Cherokee citizens at the commencement of the rebellion and left the Cherokee Nation during the rebellion, but returned thereto in 1866.

The evidence further shows that Allie Hunter is the daughter of Cora Lange, sister of Allie Grimes, one of said principal applicants, and claims right to enrollment through her; that she did not move with the slaves of Cherokee citizens at the commencement of the rebellion, and was resident in the Cherokee Nation on July 19, 1902.

The said Alice Martin was duly identified on the 1880 authenticated roll of the Cherokee Nation as a member of the colored children.

All of the applicants herein have resided in the Cherokee Nation since 1896, or from date of birth where born since the year 1896, up to and including the date of the application herein, except occasional trips of a temporary nature outside of the territory; that all of said applicants were resident in said Cherokee Nation on June 28, 1906.

It appears, from affidavits, made a part of the record herein, that the applicant, George Johnson, died in January, 1901, and that the applicant, Ellen Crouch, died in October, 1901, and that the applicant, Innis Crouch, died in August, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:

"The roll of citizens of the Cherokee Nation shall be closed September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on this date shall

replaced in said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that Eliza Gaines, Jane Webb, Mary Webb, Frank Webb, Perry Thompson, Elmer Thompson, Lee Thompson, Morrison Thompson, Julia Webb, Georgia Jones, John H. Jones, Allen Jones, Charlie Jones, Julia Jones, Walter Jones, Bonie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Nellie Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Nona Grooms, Peter W. Grooms, Neuretha Grooms, Perry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Jones, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Bonie Brown, Moses Brown, Jennie Brown, William Brown, Michael Brown, Garrett Tucker, Olen Martin, Emma Bean, Henrietta Bean, George Tucker, Floyd Tucker, Sarah A. Tucker, Hyada Carter, Allie McElroy, Ruth Taylor, Robert Harper and Jordan Harper should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered by this Commission that the applications for the enrollment of George Johnson, Eliza Grooms and Annie Grooms, as Cherokee Freedmen, be, and the same are, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(signed) Tams Bixby, Chairman.

(signed) T. B. Needles, Commissioner.

(signed) _____ Commissioner.

(signed) W. E. Stanley, Commissioner.

Muskogee, Indian Territory,

this 28 1-1'C'.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Allie McElroy,
Coffeyville, Kans.,
Cherokee-F-D-717.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee N. D-210
et al.

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Leo and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jessie H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Dumos, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriet Tucker, Clem Martin, Emma and Henrietta Bean, George, Floyd and Sarah M.

Tucker, Lydia Carter, Allie McElroy, Etta Taylor and Robert and Jordan Harper as Cherokee freedmen, and dismissing the applications for the enrollment of George Johnson and Eliza and Annie Grooms as Cherokee freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-6

COPY.

Cherokee Freedman
D 220, et al.

Muskogee, Indian Territory, September 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Eliza Gaines, et al., including the Commission's decision, dated September 8th, 1903, granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary Mabry, Frank Mabry, Berry Thompson, Elmer Thompson, Leo Thompson, Morrison Thompson, Julia Nash, Georgia Jones, John H. Jones, Ellen Jones, Charlie Jones, Susie Jones, Walter Jones, Rosie Jones, McKinley Jones, Centralia Jones, John H. Nash, Allie Nash, Jesse H. Nash, Ollie Nash, Lucy Nash, Malinda Johnson, Lottie Johnson, Lizzie Johnson, Belle Johnson, Eva Johnson, Annie Johnson, Peter McKinley Johnson, Reuben Johnson, Lewis Johnson, Julia Johnson, Martha Grooms, Dona Grooms, Peter W. Grooms, Leuretha Grooms, Berry Nash, Edward Nash, Carrie Harris, Delilah Harris, Ella Humes, Aaron Martin, Michael Martin, George Martin, Alice Martin, Martha Martin, Clifton Martin, Ethel Martin, Jane Martin, Joshua Martin, Edward Brown, Henry Brown, Stella Brown, Laura Brown, Israel Martin, Lizzie Martin, Maggie Martin, Louis Martin, Laura Martin, Lottie Martin, Nellie Brown, Rosie Brown, Moses Brown, Jennie Brown, William Brown,

Secretary of the Interior, No. 2.

Michael Brown, Harriett Tucker, Clem Martin, Hama Bean, Henrietta Bean, George Tucker, Lloyd Tucker, Sarah L. Tucker, Lydia Carter, Allie McElroy, Etta Taylor, Robert Harper and Jordon Harper as Cherokee Freedmen, and dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms.

You are advised that the Cherokee Nation protests against the action of the Commission in these cases, a copy of which protest is enclosed.

Respectfully,

T. B. MIDDLES,

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. D-98.

Cherokee Freedmen
D-717.

Muskogee, Indian Territory, September 30, 1903

Allie McElroy,

Coffeyville, Kansas.

Dear Madam:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself and your minor child, Etta Taylor, as Cherokee freedmen, together with a copy of the Commission's decision dated September 5, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Register.
Enc. D-93

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D-717.

Muskogee, Indian Territory, September 30, 1903

Allie McElroy,

Coffeyville, Kansas.

Dear Madam:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself and your minor child, Etta Taylor, as Cherokee freedmen, together with a copy of the Commission's decision dated September 5, 1903, granting, among others, your said application.

You are hereby advised that the Cherokee Nation protests against the action of the Commission in this case, a copy of which protest has been furnished the principal applicant by the attorney for the Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Register.
Enc. D-93

Refer in reply to
the following:
LAND
63878-1903

COPY.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to enclose herewith report from the Commission to the Five Civilized Tribes, dated September 3, 1903, transmitting the record relative to the application of Eliza Gaines and others for enrollment as Cherokee freedmen.

Eliza Gaines applied for the enrollment of herself. Jane Webb applied for the enrollment of herself. Eliza Gaines applied for the enrollment of her daughter, Mary Mabry and subsequently she applied for the enrollment of Frank Mabry, child of Mary Mabry, which child is properly identified by birth affidavit.

Berry Thompson applied for the enrollment of himself and his children, Elmer, Leo and Morrison Thompson.

Julia Nash applied for the enrollment of herself.

Georgia Jones applied for the enrollment of herself and her children, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones.

John Nash applied for the enrollment of himself and his minor children Allie, Jesse H., Ollie and Lucy Nash.

Malinda Johnson applied for the enrollment of herself and minor children, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben and Lewis Johnson, and subsequent to the date of her original application she applied for the enrollment of George and Julia

Johnson, her infant children who were born after the date of her original application. These minor children are properly identified by birth affidavits.

Eliza Grooms applied for the enrollment of herself and her children, Martha, Dona, Peter, Leuretha and Ennis Grooms.

Berry Nash applied for the enrollment of himself, as well as did Edward Walsh and Carrie Harris. Carrie Harris subsequently applied for the enrollment of her minor child, Delilah Harris, who is properly identified by birth affidavit.

Ella Humes applied for the enrollment of herself, as also did Aaron Martin. Aaron Martin also applied for the enrollment of other parties, but the Commission in its decision says they are differently classed and are not therefore included in the decision.

Michael Martin applied for the enrollment of himself.

George Martin applied for the enrollment of his wife, Alice Martin and their minor children, Martha, Clifton, Ethel and Jane Martin.

Joshua Martin applied for the enrollment of himself.

Edward Brown applied for the enrollment of himself and his minor children, Henry and Stella Brown, and he subsequently applied for the enrollment of Laura Brown, his minor child born after the date of his original application. This minor is properly identified by birth affidavit.

Israel Martin applied for the enrollment of himself, his wife, Lizzie Martin and their children, Maggie, Louis, Laura and Lottie Martin.

Nellie Brown applied for the enrollment of herself and minor children Roxie, Moses, Jennie, William and Michael Brown.

Harriet Tucket applied for the enrollment of herself and minor children, Clem Martin, Emma Bean, Henrietta Bean, George and Floyd Tucker; subsequent to the date of her application she also applied for the enrollment of Sarah M. Tucker, a child born after the date of her original application, who, the Commission says is properly identified by birth affidavit and made a part of the record; the office has been unable to find the birth affidavit referred to and it is presumed that the Commission neglected to file it with the record in the case.

Lydia Carter applied for the enrollment of herself and Julia McElroy applied for the enrollment of herself and minor child Etta Taylor McElroy.

Robert Harper applied for the enrollment of himself.

Jordan Harper applied for the enrollment of himself.

September 5, 1903 the Commission held that all of the applicants above named except George Johnson, who died in January 1902, Eliza Grooms, who died in October 1901 and Ennis Grooms, who died in August 1902 were entitled to enrollment as Cherokee freedmen.

As to the parties last mentioned, their applications were dismissed by the Commission.

Eliza Gaines, Jane Webb, Berry Thompson, Lydia Carter, Adam Martin, George Martin, Israel Martin, Julia Nash and Georgia Jones appear to be the principal applicants in this case. All of the other

applicants were born since 1866 and are descendants of some of the principal applicants, except Ella Humes and Alice Martin.

All of the principal applicants, the record shows were slaves of citizens of the Cherokee Nation at the commencement of the rebellion; that they left the nation during the rebellion, but returned prior to the time limit fixed by the treaty of 1866; in fact, the record shows they returned during the year 1866.

Ella Humes is a daughter of Rosa L. Sango, who was a sister of Eliza Gaines. Rosa L. Sango, deceased, belonged at the commencement of the rebellion to Nancy Dunaron, a citizen of the Cherokee Nation, and Alice Martin, wife of George Martin, the record shows is duly identified by the 1880 roll as "an adopted colored citizen."

Eliza Gaines belonged to John Stover and his wife, Charlotte Stover at the commencement of the late civil war. John Stover was not a citizen of the Cherokee Nation, but his wife was.

Jane Webb, Berry Thompson and Lydia Carter also belonged to Charlotte Stover.

Aaron Martin belonged to John Martin, a citizen of the Cherokee Nation.

Israel Martin is a son of Eliza Gaines. Julia Nash and Georgia Jones are her daughters. John Nash is her son.

Malinda Jones, Eliza Grooms, Berry Nash, Edward Nash and Carrie Nash are also her children.

Michael and George Martin are sons of Aaron Martin, as is also Joshua Martin.

Edward Brown is a son of Jane Webb, and Bellie Brown (nee

Martin) and Harriet Tucker are daughters of Aaron Martin.

Alice Martin, the wife of George Martin appears to be the daughter of Cesso Alberty and his wife, Jane Alberty. Her father was drowned in the Spring of 1876 and her mother died in 1878 or 1879. However, as above stated, she is identified by the 1880 Cherokee roll as "an adopted colored person."

The Cherokee Nation protests against the Commission's decision. From the record in this case it appears that the decision is correct and the office therefore recommends that it be approved and that all of the applicants be declared entitled to enrollment as Cherokee freedmen except George Johnson, Eliza Grooms and Ennis Grooms, who died before September 1, 1902.

Attention is invited to the Commission's statement concerning the birth affidavit relative to the identification of Sarah M. Tucker. The office has been unable to find this among the papers, but it is believed that the Commission's statement that such affidavit has been filed with it is sufficient to warrent the Department in holding that she is entitled to enrollment unless there be some good reason not known to this office why she should not be enrolled.

Very respectfully,

GAW/LM (Signed) A. C. Tonner.

5 enclosures. Acting Commissioner.

D C 10862-1904. COPY.

ITD 833-1904. DEPARTMENT OF THE INTERIOR, J.P.

L.R.S. WASHINGTON. WHR.

April 4, 1904.

Commission to the

Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 29, 1904, the Acting Commissioner of Indian Affairs submitted the consolidated case involving the applications of Eliza Gaines and others for enrollment as Cherokee freedmen, and recommended that your decision in favor of the applicants, except George Johnson, Eliza Grooms and Ennis Grooms, whose applications were rejected, be concurred in.

The names of the persons held to be entitled to enrollment are given in your decision and in the letter of the Acting Commissioner, except in his letter there appears several errors. John Nash on page 1 should be John M. Nash; Edward Walsh on page 2 should be Edward Nash; Peter Grooms on the same page should be Peter W. Grooms and Etta Taylor McElroy on page 3 should be Etta Taylor.

Finding no reason to disturb your decision it is hereby affirmed.

A copy of the Acting Commissioner's report is inclosed.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedmen
E-717.

Muskogee, Indian Territory, April 18, 1904.

Allie McElroy,

Coffeyville, Kansas.

Dear Madam:

You are hereby advised that the Commission's decision dated September 5, 1903, granting, among others, your application for the enrollment of yourself and your minor child, Etta Taylor, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-220, et al.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 5, 1903, in the consolidated case of Eliza Gaines et al., granting the applications for the enrollment of Eliza Gaines, Jane Webb, Mary and Frank Mabry, Berry, Elmer, Lee and Morrison Thompson, Julia Nash, Georgia, John H., Ellen, Charlie, Susie, Walter, Roxie, McKinley and Centralia Jones, John H., Allie, Jesse H., Ollie and Lucy Nash, Malinda, Lottie, Lizzie, Belle, Eva, Annie, Peter McKinley, Reuben, Lewis and Julia Johnson, Martha, Dona, Peter W. and Leuretha Grooms, Berry and Edward Nash, Carrie and Delilah Harris, Ella Humes, Aaron, Michael, George, Alice, Martha, Clifton, Ethel, Jane and Joshua Martin, Edward, Henry, Stella and Laura Brown, Israel, Lizzie, Maggie, Louis, Laura and Lottie Martin, Nellie, Roxie, Moses, Jennie, William and Michael Brown, Harriett, George, Floyd and Sarah M. Tucker, Clem Martin, Emma and Henrietta Bean, Lydia Carter, Allie McElroy, Etta Taylor, and Robert and Jordon Harper, as Cherokee freedmen, and dismissing the applications

for the enrollment of George Johnson and Eliza and Ennis Grooms as Cherokee freedmen, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on April 4, 1904.

Respectfully,

Commissioner in Charge.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
C. F. 1303

Muskogee, Indian Territory, December 8, 1904.

Allie McElroy,

Coffeyville, Kansas.

Dear Madam:

You are hereby advised that the name of yourself and minor child, Etta Taylor, appear upon a partial roll of Cherokee freedmen approved by the Secretary of the Interior on November 16, 1904.

You are further advised that you will be permitted to appear before the Cherokee Land Office at Tahlequah, Indian Territory, and select allotments for those whom you are entitled to represent when your ticket of admission is reached in the regular order.

Respectfully,

Chairman.

DEPARTMENT OF THE INTERIOR.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 14, 1906.

Chief Clerk,

Cherokee Land Office,

Dear Sir:

You are advised that motions have been filed by the attorney for the Cherokee Nation for a rehearing in the following Cherokee Freedmen enrollment cases listed on Cherokee Freedmen straight cards, to-wit:

F-1233 ---------- Mary Harris, et al.,
F-1234 ---------- Joseph Curry,
F-1235 ---------- Ostella Martin, et al.,
F-1236 ---------- Harrison Curry,
F-1281 ---------- Eliza Gaines,
F-1282 ---------- Jane Webb,
F-1283 ---------- Mary Mabry, et al.,
F-1284 ----------Berry Thompson, et al.,
F-1285 ---------- Julia Nash,
F-1286 ---------- Georgia Jones, et al.,
F-1287 ---------- John H. Nash, et al.,
F-1288 ---------- Malinda Johnson, et al.,
F-1289 ---------- Martha Grooms, et al.,
F-1290 ---------- Berry Nash,
F-1291 ---------- Edward Nash,
F-1292 ---------- Carrie Harris, et al.,
F-1293 ---------- Ella Humes,
F-1295 ---------- Michael Martin,
F-1296 ---------- George Martin, et al.,
F-1297 ---------- Joshua Martin,
F-1298 ---------- Edward Brown, et al.,
F-1299 ---------- Israel Martin, et al.,
F-1300 ---------- Nellie Brown, et al.,
F-1301 ---------- Harriett Tucker, et al.,
F-1302 ----------Lydia Carter,
F-1303 ---------- Allie McElroy, et al.,

F-1304 ---------- Robert Harper,
F--389 ---------- Mary Robbins, et al.,
F-1414 ---------- Houston West, et al.,
F-1415 ---------- George West, et al.,
F-1416 ---------- Callie West,
F-1417 ---------- Callie West.
F-1494 ---------- Henry West, et al.

The names of the persons appearing on these cards are included in schedules of Cherokee Freedmen approved by the Secretary of the Interior. Until these motions shall have been finally acted on, action onthe allotments selected for them should be withheld and no allotments of land should be made to any of the persons appearing on said cards until further advised.

The United States Indian Agent, Union Agency, has this day been notified of the filing of these motions.

Respectfully,

Commissioner.

LS

Muskogee, Indian Territory, July 14, 1906.

United States Indian Agent,

Union Agency,

Muskogee, Indian Territory.

Dear Sir:

For your information, you are advised that the attorney for the Cherokee Nation has filed motions to reopen the Cherokee Freedmen enrollment cases of the persons hereinafter named, whose names appear upon schedules of Cherokee Freedmen approved by the Secretary of the Interior, as follows:

Roll No.	Name.
3439	Mary Harris,
3440	Irene Harris,
3441	Olive Harris,
3442	Rheta Harris,
3443	Joseph Curry,
3444	Ostella Martin,
3445	Ira Martin,
3446	Cecil Martin,
3447	Roy Martin,
3448	Myrrh E. Martin,
3449	Harrison Curry,
3530	Eliza Gaines,
3531	Jane Webb,
3532	Mary Mabry,
3533	Frank Mabry,
3534	Berry Thompson,
3535	Elmer Thompson,
3536	Leo Thompson,
3537	Morrison Thompson,
3538	Julia Nash,
3539	Georgia Jones,
3540	John H. Jones,

Roll No.	Name.
3541	Ellen Jones,
3542	Charlie Jones,
3543	Susie Jones,
3544	Walter Jones,
3545	Roxie Jones,
3546	McKinley Jones,
3547	Centralia Jones,
3548	John H. Nash,
3549	Allie Nash,
3550	Jesse H. Nash,
3551	Ollie Nash,
3552	Lucy Nash,
3553	Malinda Johnson,
3554	Lottie Johnson,
3555	Lizzie Johnson,
3556	Belle Johnson,
3557	Eva Johnson,
3558	Annie Johnson,
3559	Peter McKinley Johnson,
3560	Reuben Johnson,
3561	Lewis Johnson,
3562	Julia Johnson,
3563	Martha Grooms,
3564	Dona Grooms,
3565	Peter W. Grooms,
3566	Lauretha Grooms,
3567	Berry Nash,
3568	Edward Nash,
3569	Carrie Harris,
3570	Delilah Harris,
3571	Ella Humes,
3573	Michael Martin,
3574	George Martin,
3575	Alice Martin,
3576	Martha Martin,
3577	Clifton Martin,
3578	Ethel Martin,
3579	Jane Martin,
3580	Joshua Martin,
3581	Edward Brown,
3582	Henry Brown,
3583	Stella Brown,
3584	Laura Brown,
3585	Israel Martin,

Roll No.	Name.
3586	Lizzie Martin,
3587	Maggie Martin,
3588	Louis Martin,
3589	Laura Martin,
3590	Lottie Martin,
3591	Nellie Brown,
3592	Roxie Brown,
3593	Moses Brown,
3594	Jennie Brown,
3595	William Brown,
3596	Michael Brown,
3597	Harriett Tucker,
3598	Clem Martin,
3599	Emma Bean,
3600	Henrietta Bean,
3601	George Tucker,
3602	Floyd Tucker,
3603	Sarah M. Tucker,
3604	Lydia Carter,
3605	Allie McElroy,
3606	Etta Taylor,
3607	Robert Harper,
3280	Mary Robbins,
3281	Dollie Rogers,
3282	Sherman Jones,
3866	Houston West,
3867	Ida West,
3868	Nancy West,
3869	Fannie West,
3870	Georgie West,
3871	William West,
3872	George West,
3873	George West, Jr.,
3874	Jessie West,
3875	Albertha West,
3876	Callis West,
3877	Callie West,
4079	Henry West,
4080	Callie West, Jr.,
4081	Cornelius West,
4082	Charlie West,
4083	Carrie West,
4084	Ella West,
4085	Watie West,
4086	Walter West,
4087	Sadie West

Roll No.	Name.
4088	Martha West,
4089	Vinita West.

Respectfully,

L.S.

Commissioner.

Muskogee, Indian Territory, November 28,1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by the attorney for the Cherokee Nation, June 25, 1906, "To review and reject" the applications for the enrollment of the applicants embraced in the Cherokee freedmen consolidated case of Eliza Caines et al. There are also enclosed an answer and a supplemental brief filed September 7, 1906, by attorneys for applicants, and the reply of the Cherokee Nation to said supplemental brief, filed September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dated September 5, 1903, dismissing the applications for the enrollment of George Johnson, Eliza Grooms and Ennis Grooms, and granting the applications for the enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee freedmen consolidated case of

Eliza Gaines et al. was affirmed by the Department April 4, 1904 (I.T.D. 836-1904). The names of all of the applicants in whose favor the decision was rendered, except the name of Jordon Harper, are included in a schedule of Cherokee freedmen approved by the Department November 16, 1904, opposite Numbers 3530 to 3607, inclusive. July 27, 1904, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the death of Jordon Harper on December 24, 1901, but supplemental proceedings had in reference to the date of his death tend to show that he died December 24, 1902. August 15, 1906, the Commissioner to the Five Civilized Tribes rendered his opinion holding that Aaron Martin, opposite Roll No. 3572, died prior to September 1, 1902, and the record of proceedings had in the case, together with the Commissioner's opinion, was forwarded to the Department on the same date, with the recommendation that the name of Aaron Martin be stricken from the roll of Cherokee freedmen.

The Attorney for the Cherokee Nation insists that as the principal applicants in this case were denied Cherokee freedman citizenship by the Cherokee commission on citizenship, on September 28, 1882, they are not entitled

to enrollment as citizens of the Cherokee Nation, in accordance with the Department's ruling in the Harry Still and John Morgan Cherokee freedman cases.

The proceedings had before said commission on citizenship were made a part of the record in the case prior to the rendition of a decision therein. None of the applicants embraced in the case, except Alice Martin, Roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except her children, Martha, Clifton, Ethel and Jane Martin, Roll Numbers 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll?

The principal applicants claim that they were slaves of John Stover, a Cherokee by blood, at the breaking out of the war of the rebellion; that they left the Cherokee Nation during the progress of said war and that they returned to the Nation in the fall of 1866. They introduced on their behalf, the testimony of Charley Chambers and James Alberty.

Charley Chambers testified that he saw Eliza Gaines, the principal applicant, once or twice after the war, and that he first saw her at Fort Gibson, Indian

Territory, in the winter of 1865, which is prior to the time the principal applicants themselves claim that they returned to the Cherokee Nation.

James Alberty testified that he was the slave of a Cherokee citizen at the breaking out of the war of the rebellion, but the Commission to the Five Civilized Tribes, May 18, 1905, decided that he was not the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the commencement of the war of the rebellion, and the Commission's decision was concurred in by the Indian Office June 21, 1905, (Land 30933-1905) and affirmed by the Department August 5, 1905(I.T.D. 7676-1905). Testimony taken in various Cherokee freedmen cases in which James Alberty (commonly known as "Sheep Jim"), has testified, shows him to be entirely unworthy of belief. The following answer given by James Alberty to the question following, does not add any credit to his testimony. (Page 5 of original testimony in case of Eliza Gaines taken May 9, 1901):

> "Q. What were you doing at Fort Gibson when you saw her (Eliza Gaines) there?
> A. Nothing, just riding about getting drunk; that is all I done in them days; I had money and didn't work."

The testimony introduced on behalf of the Cherokee Nation was for the purpose of impeaching the testimony of the principal applicants.

In an approved opinion of the Assistant Attorney General of October 5, 1905 (I T.D. 7658-1904), it was held that a judgment of the Cherokee Court-

> "is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong."

The ruling here laid down was followed by the Department March 8, 1906 (I.T.D. 10716-1905), in the case of John Morgan, et al., on September 7, 1906 (I.T.D. 15372-1906), in the case of Amos Adair, and also in other cases.

In view of the unsatisfactory condition of the record, and of the Department's ruling in the Still case and others, which ruling is at variance with the view previously taken by the Department in similar cases, it is respectfully recommended that the Nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, Roll No. 3575, identified

Secretary-6

on the roll of 1880, and her children, Martha, Clifton, Ethel and James Martin, Roll Nos. 3876 to 3879, inclusive, be granted.

Prior to the filing of this motion to review applications for the selection of allotments of land in the Cherokee Nation for all of the applicants whose enrollment upon the partial roll of Cherokee freedmen had been approved by the Department, were made to the Commission to the Five Civilized Tribes, and allotment certificates, describing the land selected, mailed to the applicants. No deeds describing the land selected have been prepared.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. R-40

Commissioner

COPY

Land
106484-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 26, 1906, enclosing a motion filed by the attorney for the Cherokee Nation on June 25, 1906, "to review and reject" the applications for the enrollment of the applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., together with an answer an and supplemental bried filed September 7, 1906, by the attorneys for the applicants and a reply of the attorney for the Cherokee Nation to the supplemental bried filed with the Commissioner on September 26, 1906.

The decision of the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of George Johnson, Eliza Gaines, and Annas Gaines, and granting the applications for enrollment as Cherokee freedmen of the other applicants embraced in the Cherokee Freedmen Consolidated case of Eliza Gaines, et al., was rendered on September 5, 1903, and was affirmed by the department on April 4, 1904 (I.T.D. 836-1904). The names of all the applicants in whose favor the decision was rendered, except the name of Jordan Harper, was included in the schedule of Cherokee

freedmen approved by the department September 16, 1904, opposite Nos. 3530 to 3607, inclusive, the name of Jordan Harper not being included for the reason that an affidavit was filed with the Commissioner on July 27, 1904, showing that he had died on September 24, 1901. Subsequent proceedings, however, with reference to his death tend to show that the date of his death was December 24, 1902. Aaron Martin, whose name appeared opposite No. 3572, died prior to September 1, 1902, and his name was subsequently stricken from the roll of Cherokee freedmen.

The motion and argument of the attorney for the Cherokee Nation insists that as the principal applicant in this case was denied Cherokee freedmen citizenship by the Cherokee Commission on citizenship on September 28, 1882, that they are not entitled to enrollment as citizens of the Cherokee Nation, following the Department's ruling in the Harry Still and John Morgan Cherokee Freedmen cases. The proceedings had before the Cherokee Commission were made a part of the record in this case prior to the rendition of a decision therein. It is shown that none of the applicants embraced in this case, except Alice Martin, roll No. 3575, can be identified on the 1880 authenticated roll of citizens of the Cherokee Nation, and except here children, Martha, Clifton, Ethel and Jane Martin, roll Nos. 3576 to 3579, inclusive, none of the applicants are descendants of persons whose names appear upon said roll.

The principal applicants claim that they were slaves of

John Stover, a Cherokee citizen, by blood, at the breaking out of the Civil War; that they left the the Cherokee Nation during the progress of the war and returned in the fall of 1866. The applicants introduced in their behalf the testimony of Charley Chambers and James, Alberty. The testimony of the witnesses and of the applicants themselves is at variance, the testimony of Charley A. Chambers locating Eliza Gaines at Fort Gibson, I.T., in the winter of 1865, while her own testimony shows that she returned in the fall of 1866. The testimony of James Alberty is contradicted by the records of the Commission to the Five Civilized Tribes, he testiyfying that he was a slave of a Cherokee citizen at the breaking out of the War of the Rebellion, while the Commission has decided in his case that he was not a slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation at the commencement of the Civil War. It appears that James Alberty has appeared as as witness in Cherokee Freedmen cases numerous times, and that his evidence taken at different hearingsis so contradictory as to show him to be entirely unworthy of belief.

It appears from the record in this case that these persons were admitted to citizenship by decision of the Commission to the Five Civilized Tribes on September 5, 1903, and that an appeal was taken therein by the attorney for the Cherokee Nation and the Commission's decision was affirmed by the Department on April 4, 1904; that all of the applicants have heretofore selected their allotments and designated their homesteads. It is shown that

some and perhaps all of the adults have disposed of their surplus lands. Copies of the deed of Lizzie Johnson to the Local Investment Company of Vinita, I. T., the deed of Eliza Gaines to the same company, and two deeds from Ella Haines and her husband to the same company are exhibits in the argument filed by theatterneys for the applicants.

It is unfortunate in a case of this kind that the matter should have been delayed until a greater part of the allotments have passed out of the hands of the applicants and into the hands of third parties. The Commissioner, in view of the unsatisfactory condition of the record, recommends that the motion filed on behalf of the Nation as to all the applicants in whose favor the decision was rendered, except as to Alice Martin, roll No. 3575, and identified upon the roll of 1880, and her children, Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted. The Office concurs in the recommendation of the Commissioner to the Five Civilized Tribes that the motion, in so far as it requires the case to be re-opened, except as to Alice Martin, roll No. 3575, and Martha, Clifton, Ethel, and Jane Martin, roll Nos. 3576 to 3579, inclusive, be granted, and that the record be remanded to the Commissioner to the Five Civilized Tribes for re-adjudication.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE-W

WJr

DEPARTMENT OF THE INTERIOR, LLM

WASHINGTON.

I.T.D. 1868-1907.
D.C. 8763-1907.

February 12, 1907.

L R S

Direct.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 106455-1906), the Indian Office transmitted your report dated November 28, 1906, in the matter of a motion filed by the Cherokee Nation to review and reject the applications for the enrollment of those applicants embraced in the consolidated Cherokee freedman case of Eliza Gaines et al.

You recommend that the nation's motion as to all the applicants in whose favor the decision was rendered, except Alice Martin, whose name appears upon the roll of 1880, and her children, Martha, Clifton, Ethel, and James Martin, be granted, in view of the ruling of the Department in the Harry Still case.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

Your attention is called to that portion of section 2 of the act of April 26, 1906 (34 Stat., 137), providing for the closing of the rolls on or before March 4, 1907.

It being apparent that a rehearing could not be had in the

short time remaining for the closing of the rolls, said motion must be denied.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

SIGNED Thos. Ryan,

First Assistant Secretary

1 inclosure.

Carbon copy and
9 inc. to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee F.
1303

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 7, 1907.

Allie McElroy,

Coffeyville, Kansas.

Dear Madam:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of yourself and daughter, among others, as Cheroke freedmen, was denied by the Secretary of the Interior, February 12, 1907.

Respectfully,

JMH

Commissioner.

Cherokee v.
1281 et al.

COPY.

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Attorneys for Eliza Gaines et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that a motion, filed by the Cherokee Nation, June 25, 1906, to review and reject the applications for the enrollment of Eliza Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.

Commissioner.

Encl. H-21
JMH

Cherokee F.
1281 et al.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that a motion, filed by you June 25, 1906, to review andreject the applications for the enrollment of Elisa Gaines, et al., as Cherokee freedmen, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bi

Commissioner.

Encl.H-20
JMH

Muskogee, Indian Territory, March 13, 1907.

Chief Clerk,

Cherokee Land Office.

Dear Sir:

You are advised that the motion filed to review the following Cherokee freedmen enrollment cases was denied by the Secretary of the Interior February 17, 1907:

Eliza Gaines	Cherokee freedman 1281
Jane Webb	Cherokee freedman 1282
Mary and Frank Mabry	Cherokee freedman 1283
Berry Thompson, et al.	Cherokee freedmen 1284
Julia Nash	Cherokee freedman 1285
Georgia Jones, et al.	Cherokee freedmen 1286
John W. Nash, et al.	Cherokee freedmen 1287
Malinda Johnson, et al.	Cherokee freedmen 1288
Martha Grooms, et al.	Cherokee freedmen 1289
Berry Nash	Cherokee freedman 1290
Edward Nash	Cherokee freedman 1291
Carrie and Delilah Harris	Cherokee freedmen 1292
Ella Humes	Cherokee freedman 1293
Aaron Martin	Cherokee freedman 1294
Michael Martin	Cherokee freedman 1295
George Martin, et al.	Cherokee freedmen 1296
Joshua Martin	Cherokee freedman 1297
Edward Brown, et al.	Cherokee freedmen 1298

Israel Martin, et al.	Cherokee freedmen 1299
Nellie Brown, et al.	Cherokee freedmen 1300
Harriett Tucker, et al.	Cherokee freedmen 1301
Lydia Carter	Cherokee freedman 1302
Allie McElroy and Etta Taylor	Cherokee freedmen 1303
Robert Harper	Cherokee freedmen 1304
Jordan Harper	Cherokee freedman 1305

Respectfully,

MMP

Commissioner.

D.C.27557-1907. GAW

DEPARTMENT OF THE INTERIOR,

I.T. 47948-1907. OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application of Eliza Gaines, et al, for enrollment as Cherokee freedmen. You are requested to advise the interested parties of the action taken.

Very respectfully,

(Signed) C. F. Larrabee,

GAW-GH. Acting Commissioner.

28

REFER IN REPLY TO THE FOLLOWING:

Cherokee F 1003,

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 8, 1907.

Allie McElroy,

Coffeyville, Kansas.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of yourself and child as Cherokee freedmen was denied by the Department May 27, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Geo. D. Rodgers
Acting Commissioner.

Encl. W-22.
S.W.

Cherokee
F 1281 et al.

Muskogee, Indian Territory, June 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental action of February 12, 1907, in the matter of the application for the enrollment of Eliza Gaines, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.W-24.
S.W.

Acting Commissioner.

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MUSKOGEE
JUN 8
3-PM
1907
IND.T.

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300

RETURN TO WRITER.

Unclaimed

Allie McElroy,

Coffeyville, Kansas.

END
OF
ROLL